

*In accordance with the Americans with Disabilities Act, persons requiring assistance or auxiliary aids in order to participate should contact the City Clerk's Office at City Hall, 13831 San Pablo Avenue, San Pablo, as soon as possible prior to the meeting. The city will give such requests primary consideration, taking into account undue financial and administrative burdens or fundamental alterations in the city service, program or activity.*

NEXT RESOLUTION NUMBER 2014-033

NEXT ORDINANCE NUMBER 2014-005

NEXT LOCAL SUCCESSOR AGENCY RESOLUTION NUMBER LSA2014-003

NEXT JOINT POWERS FINANCE AUTHORITY RESOLUTION NUMBER 2014-001

## **SAN PABLO CITY COUNCIL MEETING AGENDA**

**City Hall / Council Chambers**

**13831 San Pablo Avenue**

**San Pablo, CA 94806**

**Telephone 510.215.3000**

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**MONDAY, MARCH 3, 2014**

**6:00 pm**

Copies of this Agenda and non-exempt public records relating to an open session item on this agenda will be available for public view at the City Clerk's Office, 13831 San Pablo Avenue, Building 1, San Pablo. The full agenda packet may also be viewed on the city website at [www.SanPabloCA.gov](http://www.SanPabloCA.gov).

*Speakers wishing to address the Council on a specific agenda item should file a form with the City Clerk indicating the agenda item. The Mayor will invite you to speak at the appropriate time when the matter is being considered. If you desire to address the Council, please file your name and address with the City Clerk on forms available at the podium. We also ask that all cell phones be turned off or silenced during the meeting.*



### **ROLL CALL / PLEDGE OF ALLEGIANCE**

### **ORAL COMMUNICATIONS**

This is the time for comments on any item within the Council's subject matter jurisdiction, if such item is NOT listed on tonight's agenda. The Council may not engage in discussion or take action on any item that is not specifically listed on the agenda. Your item may be referred to city staff for investigation, report or placement on a future agenda. Persons addressing the Council are required to limit their remarks to three (3) minutes unless an extension or decrease of time is ordered. Please file your name and address with the City Clerk on forms available at the speaker's podium.

### **CEREMONIAL MATTERS**

Introduction of new employees: Aaron Hauswirth (Administration Clerk for Development Services); Eugenio Salcedo (Administrative Intern for Development Services); Jerome Ison (Paratransit Driver); Jennifer Chong (Recreation Coordinator); and Cynthia "Jen" Jackson (Environmental Program Analyst).

### **FIRE DISTRICT UPDATE** (pages 7-12)

### **CITY MANAGER REMARKS**

## **CONSENT CALENDAR**

All matters listed in the Consent Calendar section will be considered routine by the City Council and will be enacted by one motion. The disposition of the item is indicated. There will be no separate discussion of these items. If discussion is requested, that item will be removed from the section entitled Consent Calendar and will be considered separately.

## **CONSENT CALENDAR**

### **MINUTES** *(pages 13-20)*

1. Minutes of the meetings of February 18, February 20 and February 21, 2014.

RECOMMENDATION: Approve

### **PROCLAMATIONS**

#### **Council** *(pages 21-26)*

2. Proclamation recognizing Brett Bennett as 2013 Officer of the Year.

RECOMMENDATION: Approve

### **MISCELLANEOUS**

#### **Council** *(pages 27-48)*

3. Resolution of the City Council of the City of San Pablo authorizing the City Manager to execute Amendment #5 to the agreement with Nichols Consulting Engineers, for the Wildcat Creek Trail Project (PW 219); with respect to the California Environmental Quality Act (CEQA) guidelines, a Notice of Exemption was filed.

RECOMMENDATION: Adopt Resolution

#### **Council** *(pages 49-64)*

4. Resolution of the City Council of the City of San Pablo authorizing the City Manager to enter into a License and Operating Use Agreement with the Pacific Coast Farmers' Market Association and Palm Plaza Development, Inc. for the operation of the 2014 and 2015 San Pablo Farmers' Markets.

RECOMMENDATION: Adopt Resolution

#### **Council** *(pages 65-76)*

5. Resolution of the City Council of the City of San Pablo to approve Childhood Obesity Prevention Task Force (COPTF) appointments and approve consolidation of the Childhood Obesity Prevention Task Force to a single governing body.

RECOMMENDATION: Adopt Resolution

#### **Council** *(pages 77-82)*

6. Resolution of the City Council of the City of San Pablo authorizing fee waiver for use of the Madeira Room in Maple Hall for the West Contra Costa Integrated Waste Management Authority (RecycleMore) and The Watershed Project's Bye Bye Basura Workshop on Saturday, March 29, 2014.

RECOMMENDATION: Adopt Resolution

**Council** (pages 83-92)

7. Resolution of the City Council of the City of San Pablo ordering the engineer to prepare and file reports for the levy of annual assessments for Fiscal Year 2014/15 for San Pablo Street Light and Landscape Assessment District No. 1982-1, and authorizing the City Manager to execute an agreement for these services with LCC, Inc.

RECOMMENDATION: Adopt Resolution

**Council** (pages 93-100)

8. Resolution of the City Council of the City of San Pablo authorizing (1) the temporary closure of streets for the 2014 Cinco de Mayo Parade and Celebration; (2) waiver of traffic control fees; (3) provision of Police, Recreation and Public Works staff to support the event; (4) provide a \$7,000 event sponsorship; and (5) designate the Cinco de Mayo Committee as Fiscal Agent.

RECOMMENDATION: Adopt Resolution

**Council** (pages 101-108)

9. Resolution of the City Council of the City of San Pablo authorizing to proceed with a community survey process to rename the former Circle S Project site for FY 2013-14.

RECOMMENDATION: Adopt Resolution

**Council** (pages 109-118)

10. Resolution of the City Council of the City of San Pablo authorizing the City Manager to amend the FY 2013-14 Organizational Structure of the City Manager's Department consistent with the adopted 2014 Classification & Compensation Plan.

RECOMMENDATION: Adopt Resolution

**COUNCIL AUTHORIZATIONS**

**Council** (pages 119-130)

11. City Council authorization and Release of External Communications Report for First Quarter of External Communications Report (July 1, 2013 through September 30, 2013) for FY 2013-14.

RECOMMENDATION: Approve by Minute Order

**Council** (pages 131-132)

12. City Council authorization to establish a temporary Ad-Hoc Subcommittee for revisions to the City Manager Employment contract.

RECOMMENDATION: Authorize by Minute Order

**\*\*\* END OF CONSENT CALENDAR \*\*\***

## ORDINANCES

### Council (pages 133-146)

13. Ordinance of the City Council of the City of San Pablo amending Section 8.02.020 of the San Pablo Municipal Code to declare as a public nuisance the cultivation of marijuana, and addition of ordinance to Council Priority Workplan.

RECOMMENDATION: Add to FY2013-15 Council Priority Workplan;  
waive first reading; introduce Ordinance

## RESOLUTIONS

### Council (pages 147-170)

14. Resolution of the City Council of the City of San Pablo calling for and giving notice of a June 3, 2014 election on a proposed ballot measure seeking voter approval of a one-quarter of one percent (0.25%) Transactions and Use (Sales) Tax to fund emergency medical services at San Pablo Fire Station #70, establishing the policies and procedures for such an election and requesting that the County of Contra Costa conduct such an election; and

An Ordinance of the City Council of the City of San Pablo imposing a Transactions and Use Tax for emergency medical services to be administered by the State Board of Equalization.

RECOMMENDATION: Adopt Resolution by 2/3 vote of all members; designate two councilmembers to author ballot argument in favor of the measure; receive and file 2013 Survey Report and post on website; waive first reading; introduce Ordinance

**MAYOR AND CITY COUNCIL ASSIGNMENTS REPORTS:** (Approved by Resolutions 2014-015; 2014-016)  
Informational reports from Councilmember representatives to the following committees, commissions and organizations; **brief reports on meetings attended at the expense of the City or Agency, as required by Government Code section 53232.3(d) (AB 1234);** and other reports regarding items of general interest to the City Council. The City Council may take action on other items of interest that are specifically agendaized herein:

(a) **Mayor Paul V. Morris**

**Memberships:** Contra Costa Mayors' Conference (Primary); West County Mayors' Association (Primary); League of California Cities/Public Safety Policy Committee; West County Integrated Waste Management Authority (Alternate)

**Ad-Hoc Subcommittees:** Casino San Pablo/MSA; Community Grants; Legislative, Inter-governmental & Policy Affairs; Public Safety; Youth Services

(b) **Vice Mayor Kathy Chao Rothberg**

**Memberships:** League of California Cities/East Bay League Division; SPEDC Board of Directors; West County Mayors' Association (Alternate)

**Ad-Hoc Subcommittees:** Casino San Pablo/MSA; Economic Development & Environmental Planning/Quality; Human and Social Services

(c) **Councilmember Rich Kinney**

**Memberships:** Association of Bay Area Governments (ABAG); League of California Cities/Housing, Community and Economic Development Policy Committee

**Ad-Hoc Subcommittees:** Budget, Fiscal and Operational Services; Legislative, Inter-governmental and Policy Affairs

- (d) **Councilmember Cecilia Valdez**  
**Memberships:** League of California Cities/East Bay League Division (Alternate) San Pablo Oversight Board; Sister City Committee (Alternative); West County Integrated Waste Management Authority (Primary); West Contra Costa Transportation Advisory Committee  
**Ad-Hoc Subcommittees:** Budget, Fiscal and Operational Services; Community Grants
- (e) **Councilmember Genoveva Garcia Calloway**  
**Memberships:** Association of Bay Area Governments (Alternate); SPEDC Board of Directors; Sister City Committee; West Contra Costa Transportation Advisory Committee (Alternate)  
**Ad-Hoc Subcommittees:** Human and Social Services; Public Safety; Youth Services

### **ADJOURNMENT**

Adjourn to Monday, March 17, 2014 at 6:00 pm, in memory of Carlos Figueroa, father-in-law of Maintenance Worker III MacNoel Alvarez.

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San Pablo City Council

**Contra Costa County Fire District Station # 70**

**Battalion 7**

January 2014

**Your Station responded to 299 Emergency Calls**

Response breakdown

- 113 Emergency Medical Service
- 50 Automatic Aid responses to the City of Richmond
- 10 Structure Fires
- 13 Exterior Fires
- 4 Vehicle Fires
- 19 Fire/Medical Alarms
- 9 Motor Vehicle Accidents
- 8 Hazardous Conditions (Illegal Burning, Gas line breaks, Odor Investigations, etc)
- 2 Minor Rescues

## Battalion 7 Significant Incidents



DATE: 01/03/2014

TIME OF ALARM: 14:49

TYPE OF INCIDENT: **Pinole Residential Structure Fire**

LOCATION: 623 Marlesta Rd. Pinole

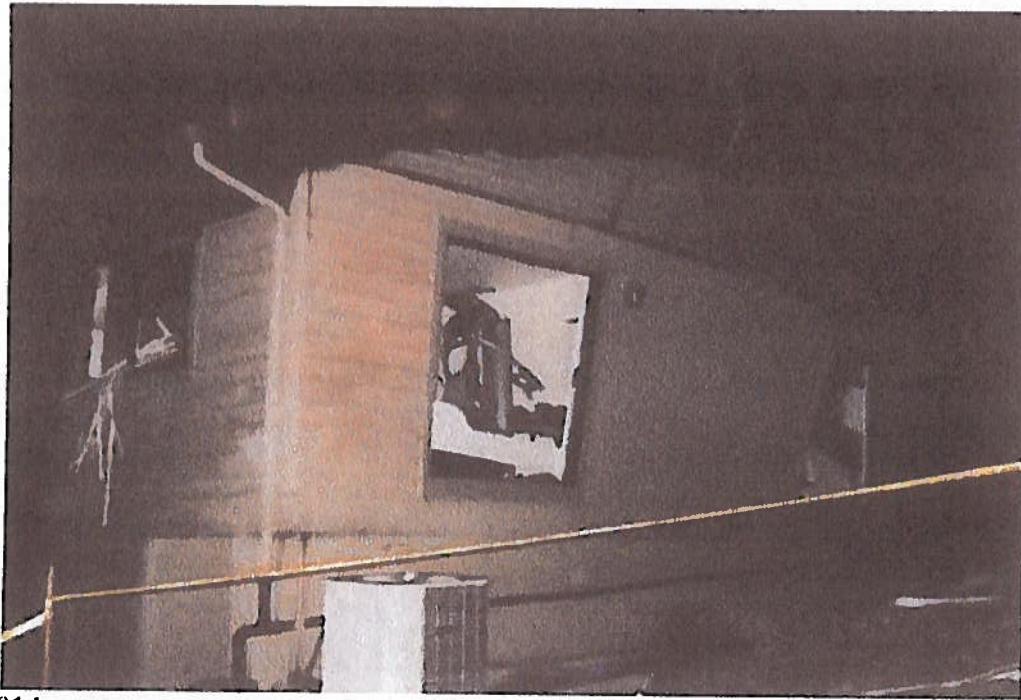
RESPONSE: Pinole E73, Contra Costa Fire E69, Contra Costa Fire E70, Rodeo-Hercules Quint 76, Crockett E78, Rodeo-Hercules Battalion Chief, El Cerrito Battalion Chief

ASSISTING AGENCIES: Pinole Police, Contra Costa Fire Protection District Fire Investigators 1120 and 1141, Crockett-Carquinez Fire District, Moraga-Orinda Fire District, PG&E.

Total Firefighters at scene: 20

E73, 69, 70, 78, Q76, BC7 and BC71 responded for a residential structure fire, a report of a garage on fire. E73 arrived with smoke and flames coming from the front of the garage. E73 was advised that the residents had evacuated and then driven away. PNPd further advised that this was a marijuana grow house. E73 and E69 initiated forcible entry and fire attack. Q76 ventilated and E70 assisted with checking the living areas of the house for extension. On primary search, units found 4 grow rooms with extensive lighting and ventilation systems in the residence. All units performed extensive overhaul in the attic areas to ensure no fire extension. The cause and origin was determined to be an illegal hot tap of the electrical feed prior to the main inside the garage. ConFire investigators were requested and worked with PNPd on the investigation (Pinole PD case # P14-178). PG&E arrived and secured the electrical service. The scene was released PNPd and CON investigators. A board up company was called to secure the property. The investigation is still in progress- do not release this information to the public. CON E09 covered St. 70 and MOFD E43 covered St. 73.





DATE: 01/05/2014

TIME OF ALARM: 22:16

TYPE OF INCIDENT: **Pinole Residential Structure Fire/ Explosion**

LOCATION: 3797 Pinole Valley Rd, Pinole

RESPONSE: Pinole E73, Contra Costa Fire E69, Contra Costa Fire E70, Rodeo-Hercules Quint 76, Crockett E78, Pinole Battalion Chief, El Cerrito Battalion Chief

ASSISTING AGENCIES: Pinole Police, Crockett-Carquinez Fire District, PG&E

Total Firefighters at scene: 21

Battalion 7 units responded to a reported chimney fire in Pinole Valley. The Pinole Battalion Chief was first on scene and found flames showing from the two story single family residence's exterior chimney enclosure. No flames were seen in the living area, although moderate smoke conditions were found on the second floor. The occupants had exited and advised that everyone was out of the house. While fire engines were still enroute, a smoke explosion occurred in the structure's concealed spaces that blew out second story windows, damaged the first and second floor roof assemblies, dropped ceiling sheet rock and blew the second story rear wall 1 ½ feet out. There were no injuries and there was minimal sustained fire associated with the explosion. Fire units arrived, established a water supply and extinguished the fire. Upon checking for fire extension, moderate fire involvement was found in the concealed ceiling/ floor assembly above the first floor room where the fireplace was located and in the chimney's exterior enclosure. Attic involvement was minimal.

The fire was determined to be caused by a breach in wood stove insert flue pipe that allowed fire into the exterior enclosure and into the ceiling/floor assembly. The occupants were alerted when they discovered smoke coming out from an electrical outlet on the second floor and called 911. The fire caused \$25,000 damage. The smoke explosion caused major structural damage. The cause, origin and nature of the smoke explosion is under investigation.



DATE: 01/16/2014

TIME OF ALARM: 22:13

TYPE OF INCIDENT: **Rodeo Residential Structure Fire**

LOCATION: 733 San Pablo Av. Rodeo

RESPONSE: Rodeo-Hercules Quint76, Pinole E73, Contra Costa Fire E69, Contra Costa Fire E70, Crockett-Carquinez E78, Pinole Battalion Chief, El Cerrito Battalion Chief

ASSISTING AGENCIES: Contra Costa Sheriff's Office, Moraga-Orinda Fire District, PG&E, Red Cross  
Total Firefighters at scene: 19

Battalion 7 units responded to a 911 call from neighbors reporting a residential structure fire threatening an adjacent apartment building at 733 San Pablo Av. in Rodeo last night. First arriving units found heavy smoke and flames coming the front of a single story single family dwelling. The structure's porch and front rooms were fully involved, causing flame impingement on an adjacent multi-family apartment building next door. Crews attacked the fire with multiple hoselines, established a water supply, conducted primary search and rooftop ventilation and were able to control the fire in thirty minutes. The fire caused \$200,000 in damage to the structure and contents. There were no reported injuries.

The 59 year old male sole owner/occupant was found uninjured by fire crews in front of his home upon their arrival. Upon investigation, he stated that he had been having problems with a dish style electric radiant space heater that was in the front room. The occupant stated as he exited the front door to look for his dog, the front security door locked behind him. As the door closed, he heard the space heater "crackling". Through the front security door, the owner was able to see the space heater start an incipient fire, which quickly spread to the adjacent sofa and room. The owner attempted to extinguish the fire with a garden hose, but was locked out of his residence. Neighbors called 911.

The Contra Costa Sheriff's Office assisted with traffic control for three hours and Red Cross was contacted to assist the displaced owner. Moraga-Orinda Fire District provided area coverage for Pinole and Rodeo-Hercules for three hours.

**Battalion 7 Drawdown- 1/10/14 @ 20:15 hrs- all B7 units assigned/committed on incidents-**

19:53 E73, Q76 and BC7 responded to a vehicle rollover with a trapped occupant at SPA and Del Monte in Pinole. The vehicle required stabilization, victim access, extrication, and treatment.



20:03 E70 completed investigating a commercial fire alarm at 13728 SPA with RMD E66 cleared the fire alarm and responded to an exterior fire at Rd 20 @ 17St.

20:04 Q76 and BC7 responded to an auto vs motorcycle at SPA @ Shamrock Dr on the Pinole/San Pablo border. The motorcycle rider was found in the middle of the intersection with multiple fractures and positive loss of consciousness. REACH and CALSTAR were not available. Hazard control, patient treatment and packaging was extended.



20:15 E73 had to clear the Del Monte rollover and respond to 1910 Redwood Rd. Hercules for Pediatric EMS call.

20:15 E69 responded to Pinole Valley High School for an extremity injury.



## **Training and Public Education**

Rope Rescue Evolutions

Automobile Extrication Training

Pacific Gas and Electric Safety Training

Multi-Casualty Incident Training



**E-70 Vehicle Fire January 1<sup>st</sup> 2014**

## **Operations and Administration**

The Board of Supervisor's acting a The Fire District Board of Directors accepted the Fitch Fire Services Report :

<http://ca-contracostacounty.civicplus.com/DocumentCenter/View/29182>

Fire Station 70 responded to 3440 Emergency Incidents during 2013. This represents an increase of 231 Emergency responses from 2012.

Respectfully Submitted,

Lon Goetsch, Battalion Chief

Contra Costa County Fire Protection District

[LGoet@cccfd.org](mailto:LGoet@cccfd.org)

**MINUTES OF THE REGULAR MEETING OF THE SAN PABLO CITY COUNCIL  
AND THE SUCCESSOR AGENCY OF THE CITY OF SAN PABLO**

**TUESDAY, FEBRUARY 18, 2014**

The Closed Session convened at 5:21 pm. Present in the Council Conference Room were Vice Mayor Kathy Chao Rothberg, and Councilmembers Rich Kinney, Cecilia Valdez and Genoveva Garcia Calloway. Mayor Paul Morris arrived at 5:50 pm. Also present were City Manager Matt Rodriguez, Assistant City Manager Kelsey Worthy, Assistant to the City Manager Tina Gallegos and Finance Manager Kelly Sessions.

**CLOSED SESSION**

**CONFERENCE WITH LABOR NEGOTIATORS**

Government Code section 54957.6

Agency Designated Representatives: Matt Rodriguez and Kelsey Worthy

Employee Organizations: Association of Intermediate Employees; San Pablo Police Employees' Association; Local One

**ROLL CALL**

The regular meeting convened at 6:08 pm. Present were Mayor Paul Morris, Vice Mayor Kathy Chao Rothberg, and Councilmembers Rich Kinney, Cecilia Valdez and Genoveva Garcia Calloway. Also present were City Manager Matt Rodriguez, Assistant City Manager Kelsey Worthy, Finance Manager Kelly Sessions, Police Commander David Krastof, City Clerk Ted Denney, City Treasurer Viviana Toledo, and Special Counsel Christie Moore. Absent were City Attorney Brian Libow and Police Chief Walter Schuld.

Mayor Morris announced the nature of the Closed Session meeting.

**ORAL COMMUNICATIONS**

Rita Xavier reported on behalf of the Advisory Committee on Aging and announced the Emergency Medicines, Heart Attack and Stroke Seminar that the Aging Committee is hosting at Maple Hall on March 4, 2014.

The following individuals spoke regarding the status of their home loans and are requesting assistance from the Council: Genny Zentella, Enrique Perez, Shanae LaSalle and Rosa Flores. Melvin Lewis and Zara Gonzalez both spoke on behalf of Alliance of Californians for Community Empowerment. Mayor Morris requested an informational meeting be held for homeowners to advise them of options and resources available to homeowners.

**PRESENTATIONS**

Adopt-a-Family Program Committee Members John Crabtree and Mary Delgado made a PowerPoint presentation recapping the services and activities the Program held in 2013.

Assistant to the City Manager Tina Gallegos and Linda Gates of Gates & Associates made a PowerPoint of the Circle S Landscape and Street Design, including overview of the phases and proposed landscaping improvements.

### **CITY MANAGER REMARKS**

City Manager Rodriguez announced the community meeting at Davis Park scheduled for February 19, 2014 to discuss the playground structures. He also reported of EBMUD plan to ask for 10% reduction in water usage and that EBMUD may attend a future council meeting.

### **CONSENT CALENDAR**

Mayor Morris announced that agenda item #8 (tax allocation bonds) is pulled from the Consent Calendar for separate discussion. It was moved by Councilmember Calloway, seconded by Vice Mayor Chao Rothberg, and unanimously approved to adopt the remaining items in the Consent Calendar.

### **MINUTES**

By adoption of the Consent Calendar, the Minutes of the meetings of January 31, 2014 and February 3, 2014 were approved.

### **PERIODIC REPORTS**

#### **Council**

By adoption of the Consent Calendar, the Vendor Check Register Report for the month of January 2014 was approved.

#### **Council**

By adoption of the Consent Calendar, the Quarterly Treasurer's Report for the first and second quarters of FY 2013-14 was approved.

### **MISCELLANEOUS**

#### **Council**

By adoption of the Consent Calendar, **Resolution 2014-029** was approved, a Resolution of the City Council of the City of San Pablo adopting a 2014 Classification and Compensation Plan.

#### **Council**

By adoption of the Consent Calendar, **Resolution 2014-030** was approved, a Resolution of the City Council of the City of San Pablo authorizing the City Manager to amend the FY2013-14 and FY2014-15 Organizational Structure of the Development Services Department.

#### **Council**

By adoption of the Consent Calendar, **Resolution 2014-031** was approved, a Resolution of the City Council of the City of San Pablo adopting revisions to the Personnel Rules.

#### **Council**

By adoption of the Consent Calendar, **Resolution 2014-032** was approved, a Resolution of the City Council of the City of San Pablo electing that the City shall continue to serve as Interim Housing Successor to the former Redevelopment Agency until such time as an alternate housing successor may be and is so designated by the City Council.

### LSA

This item was pulled from the Consent Calendar and discussed separately. Finance Advisor Bradley Ward provided some background information on the bonds. Consultant Financial Advisor Steve Gortler addressed Council's questions. It was moved by Councilmember Calloway, seconded by Councilmember Valdez, and unanimously passed to adopt **Resolution LSA2014-001**, a Resolution of the Successor Agency to the Redevelopment Agency of the City of San Pablo authorizing the issuance of one or more series of its subordinate tax allocation refunding bonds; authorizing the execution and delivery of a Subordinate Indenture, an Escrow Agreement, a Continuing Disclosure Agreement, a Subordination Agreement, and a Bond Purchase Agreement; and authorizing related actions.

### LSA

By adoption of the Consent Calendar, **Resolution LSA2014-002** was approved, a Resolution of the Successor Agency to the Redevelopment Agency of the City of San Pablo approving an Administrative Budget and adopting the Recognized Obligation Payment Schedule for July through December 2014 ("ROPS 14-15A").

### BOARDS AND COMMISSIONS

#### Council

By adoption of the Consent Calendar, the request to pose Notice of Vacancy for the Safety Commission (one) vacancy was approved.

\* \* \* END OF CONSENT CALENDAR \* \* \*

### ORDINANCES

#### Council

It was moved by Councilmember Calloway, seconded by Councilmember Valdez, and unanimously approved, to waive the second reading and adopt **Ordinance 2014-003**, an ordinance of the City Council of the City of San Pablo amending Chapter 5.28 of the San Pablo Municipal Code to establish new regulations for secondhand dealers and pawnbrokers, including "Cash for Gold" operators.

#### Council

It was moved by Councilmember Valdez, seconded by Councilmember Kinney, and unanimously approved to waive the second reading and adopt **Ordinance 2014-004**, an Ordinance of the City Council of the City of San Pablo amending various sections in Chapter 17 of the San Pablo Municipal Code, Zoning, dealing with pawnshops and secondhand dealers, including but not limited to "Cash for Gold" outlets.

### MAYOR AND CITY COUNCIL ASSIGNMENTS REPORTS

Mayor and City Council reported on their recent and upcoming activities.

**ADJOURNMENT**

It was moved by Councilmember Calloway, seconded by Vice Mayor Chao Rothberg, and unanimously passed to adjourn the meeting at 7:15 pm to Monday, March 3, 2014, at 6:00 pm, in memory of Barbara Alameda, mother of Police Commander Gene Alameda, and Reggie Moore, former councilmember for the City of Antioch.

Respectfully Submitted,

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Ted J. Denney, City Clerk

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Paul V. Morris, Mayor



## MINUTES OF THE SPECIAL MEETING OF THE SAN PABLO CITY COUNCIL

THURSDAY, FEBRUARY 20, 2014

The Closed Session meeting convened at approximately 3:30 pm in the Council Conference Room. Present in the Closed Session were Mayor Paul Morris and Vice Mayor Kathy Chao Rothberg, and Councilmembers Cecilia Valdez and Genoveva Garcia Calloway. Absent was Councilmember Rich Kinney. Also present was and Dr. Richard Garcia.

### **CLOSED SESSION**

CLOSED SESSION pursuant to Gov't Code section 54957

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: City Manager

### **ADJOURNMENT**

The meeting adjourned at approximately 4:50 pm.

Respectfully Submitted,

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Lehny M. Corbin, Deputy City Clerk

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Paul V. Morris, Mayor

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## MINUTES OF THE SPECIAL MEETING OF THE SAN PABLO CITY COUNCIL

FRIDAY, FEBRUARY 21, 2014

The Closed Session meeting convened at 9:35 am in the Council Conference Room. Present in the Closed Session were Mayor Paul Morris and Vice Mayor Kathy Chao Rothberg, and Councilmembers Rich Kinney, Cecilia Valdez and Genoveva Garcia Calloway. Also present were City Manager Matt Rodriguez and Dr. Richard Garcia.

### **CLOSED SESSION**

CLOSED SESSION pursuant to Gov't Code section 54957

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: City Manager

### **ADJOURNMENT**

The meeting adjourned at approximately 10:50 pm.

Respectfully Submitted,

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Lehny M. Corbin, Deputy City Clerk

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Paul V. Morris, Mayor

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# REQUEST FOR COUNCIL ACTION



PREPARED BY: Lehny M. Corbin *LMC*

DATE OF MEETING: March 3, 2014

DATE: February 18, 2014

PHONE: 215-3003

**SUBJECT: PROCLAMATION RECOGNIZING BRETT BENNETT AS 2013 OFFICER OF THE YEAR.**

APPROVED: *[Signature]*

DEPARTMENT HEAD

CITY MANAGER

CITY ATTORNEY

## **RECOMMENDATION**

Ratify issuance of Proclamation.

## **COMPLIANCE STATEMENTS**

### **FY 2013-14 Council Priority Workplan Compliance Statement**

This action is not applicable under the FY 2013-14 Council Priority Workplan, effective July 1, 2013.

### **CEQA Compliance Statement**

This is not a project as defined by CEQA.

## **BACKGROUND**

San Pablo Police Officer Brett Bennett was recognized as 2013 Officer of the Year at the Law Enforcement Night event held on February 12, 2014 hosted by the Richmond Elks Lodge No. 1251. The attached proclamation was presented to Officer Bennett on the night of the event.

## **FISCAL IMPACT**

None.

### **Departmental Coordination**

☐ Development Services \_\_\_\_\_

☐ Police \_\_\_\_\_

☒ Finance *[Signature]*

☐ Public Works \_\_\_\_\_

# *Proclamation of the City of San Pablo*

## *Recognizing*

**BRETT BENNETT**

*As*

## *2013 Officer of the Year*

*WHEREAS, The Police Department recognizes Master Officer Bren Bennett for his work ethic and enthusiasm for policing. He strives to make our police department a better place as a field-training officer and as a weaponless defense instructor. In his off time, he takes police-related courses, teaches at the police academy and even obtained his master's degree;*

*WHEREAS, Brett's dedication to the youth of our community has not gone unnoticed. He regularly assists the Youth and Education Services Unit and helps with our Kids to Camp program. As the primary coordinator of our Explorer Program, he prepares and presents monthly trainings. And, at Contra Costa Community College's Summer Police Explorer Academy he taught over 50 explorers a variety of law enforcement topics and coordinated the Firearm Simulator course;*

*WHEREAS, Brett does not spend all his time training, teaching and mentoring. As a graveyard patrol officer, over the last year, he has had to police the streets of San Pablo;*

*WHEREAS, Brett stopped a nefarious criminal street gang member after he crashed into a parked vehicle. Although the gangster, who was well known for assaulting police, was combative, Brett was able to subdue and arrest him and recover his loaded handgun;*

*WHEREAS, the victim of an attempted robbery with a firearm described to Brett the person who had robbed her. Through his beat familiarity, he surmised who the suspect was. And, after the victim picked the suspect out of a photo lineup, he located and arrested the suspect who gave him a full confession;*

*WHEREAS, working a hot spot, Brett developed information that probationers were using drugs and in possession of a firearm. He obtained a search warrant, located the firearm and drug paraphernalia and arrested the three probationers;*

*WHEREAS, a person who had just been robbed at gunpoint flagged down Brett. He located and stopped the suspect vehicle, seized the firearm and recovered the victim's property;*

*WHEREAS, Brett received information that a wanted felon was selling narcotics from an apartment. He arrested the suspect and another parolee and seized ½ pound of methamphetamine and a 9mm handgun;*

*WHEREAS, Brett conducted a probation search on a felon who was selling marijuana. He seized over one pound of marijuana, ammunition and both M1 carbine and AR-15 assault rifles, which led to the arrest of the suspect;*

*WHEREAS, this year, nearly half of all cases taken by Brett were self-initiated and resulted in an arrest. He wrote three search warrants and conducted countless probation and parole searches. He received commendations and has been recognized as the City's employee of the month due to his relentless efforts to combat crime in the City of San Pablo.*

*NOW THEREFORE, I, Paul V. Morris, Mayor of the City of San Pablo on behalf of the City Council, do hereby congratulate Brett Bennett as 2013's Officer of the Year and commend him for his dedication to the Police Department and the safety of community.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of San Pablo to be affixed this 12<sup>th</sup> day of February, 2014.*

*Paul V. Morris, Mayor*

A Fraternal Organization



**RICHMOND ELKS LODGE NO. 1251**

Benevolent and Protective Order of Elks  
3931 San Pablo Dam Road  
El Sobrante, CA 94803  
(510) 223-3441



Cynthia Cowen, Exalted Ruler

January 2, 2014

City Manager Matt Rodriguez  
City of San Pablo  
#1 Alvarado Square  
San Pablo, CA 94806

**SUBJECT: LAW ENFORCEMENT NIGHT – WEST CONTRA COSTA COUNTY  
PEACE OFFICER RECOGNITION PROGRAM**

Dear City Manager Rodriguez,

Richmond Elks Lodge No. 1251 is pleased to invite you to its Law Enforcement Night on Wednesday, February 12, 2014. Please join us as we recognize seven law enforcement officers from West Contra Costa County for an exemplary accomplishment or act of service to the community they serve.

We have requested that Police Chief Walter Schuld designate one of his police officers from the San Pablo Police Department to be honored. Please notify me if you would like to add a presentation for the honoree from the San Pablo City Council during the evening's program.

The cost is \$25.00 per person.  
(Menu: Steak or Salmon)

Reception and Social hour:	6:00 P.M.
Dinner:	7:00 P.M.
Program:	8:00 P.M.

For additional information about the event or to make reservations you may contact me directly at (510) 326-0844. Please make reservations by February 10, 2014. You may also contact the Richmond Elks Lodge Secretary at (510) 223-3441.

Sincerely,

Robert Ostini, Chairman  
Law Enforcement Night

# POLICE OFFICER APPRECIATION NIGHT

Wednesday, February 12, 2014

AN EVENING OF SPECIAL RECOGNITION FOR POLICE OFFICERS  
FROM THE FOLLOWING WEST CONTRA COSTA COUNTY LAW  
ENFORCEMENT AGENCIES:

Sponsored by RICHMOND ELKS LODGE No. 1251

El Cerrito

Hercules

Kensington

Pinole

Richmond

San Pablo

CCC Sheriff's Dept.



## 2013 LAW ENFORCEMENT NIGHT HONOREES

E.R. Marie Haney, Elks; Sid Hubbs, El Cerrito PD; Joe Updike, Pinole PD;  
Danny Wellhausen, Richmond PD; Ravander Singh, San Pablo PD;  
William Root, C.C.C. Sheriff Department; Christopher Turner, Kensington PD;  
Robert Pesmark, Hercules PD; Bob Ostini, Elks

Reception: 6:00 P.M.

Dinner: 7:00 P.M.

Program: 8:00 P.M.

Cost is \$25.00 per person  
(Menu: Steak or Salmon)

### Location:

Richmond Elks Lodge  
3931 San Pablo Dam Rd.  
El Sobrante, CA. 94803

Reservations due by February 10,  
2014 to Richmond Elks Lodge.

For more information and to make  
reservations by telephone, please call  
Bob Ostini at (510) 326-0844 or the  
Richmond Elks at (510) 223-3441.



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# REQUEST FOR CITY COUNCIL ACTION



CITY OF SAN PABLO  
City of New Directions

PREPARED BY: Scott Christie

DATE OF MEETING: March 3, 2014

DATE: February 20, 2014

PHONE: 215-3061

**SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT #5 TO THE AGREEMENT WITH NICHOLS CONSULTING ENGINEERS, FOR THE WILDCAT CREEK TRAIL PROJECT (PW 219) ; WITH RESPECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES, A NOTICE OF EXEMPTION WAS FILED**

APPROVED:

DEPARTMENT HEAD CITY MANAGER CITY ATTORNEY

## RECOMMENDED ACTION

The City Manager recommends adoption of said Resolution.

## COMPLIANCE STATEMENTS

### **FY 2013-15 Council Priority Workplan Compliance Statement**

This subject project is under the adopted policy item *Infrastructure – Capital Improvement Projects* in the City Council Priority Workplan.

### **CEQA Compliance Statement**

With respect to the California Environmental Quality Act (CEQA) guidelines, a Notice of Exemption was filed with the County Clerk on December 20, 2007, and a revised Notice of Exemption (with a more precise project description) was filed on January 19, 2011.

## BACKGROUND

The Wildcat Creek Trail is designated as a future connector trail to the Regional Bay and Ridge Trails. Segments of trail have already been completed along the lower reaches of the creek, and the City of San Pablo has completed sections from Rumrill Boulevard to the western end of Davis Park. The segment from Davis Park to 23rd Street is the next segment to be constructed by the City. Acquisition of the necessary land and easements for the trail have been completed.

### Departmental Coordination

☐ Dev. Services \_\_\_\_\_

☐ Police \_\_\_\_\_

☒ Finance \_\_\_\_\_

☐ Public Works \_\_\_\_\_

This section of trail will provide an 800-foot greenway, connecting 23rd Street commercial area to Davis Park, and in the future to the Bay Trail. The proposed trail would be located at the top of the north bank of Wildcat Creek. Creekbank restoration work including removal of concrete rubble and non-native ivy and replanting with appropriate riparian vegetation will be included with the trail construction.

The City has an agreement with Nichols Consulting Engineers, Chtd., for professional services on the project, including the preparation of construction drawings, and permit acquisition. Design work was nearly complete and the permit process was started in February 2011, with consultation meetings with the regulatory agencies having jurisdiction for this work along the creek: the State Department of Fish and Wildlife, the State Water Resources Control Board ("Water Board"), and the US Army Corps of Engineers. During these meetings, and the subsequent research and study which Nichols performed in an attempt to gain approval for our selected design, the Water Board determined that they would not accept the use of "geocells" which was a component of our creek bank restoration design, even though this design had been accepted by the Water Board for other recent projects.

Nichols prepared alternate conceptual designs (without use of geocells) for review by the Water Board, and we were able to obtain the required permit (401 certification) on the condition that revised design plans be submitted. To meet this requirement, and to complete the permit amendment work required for the other regulatory agencies to address the revised plans, NCE has provided the attached Proposal.

This resolution authorizes Amendment #5 (draft attached) for a not to exceed amount of \$96,500, in a form substantially the same as the draft attached. As is customary for this type of professional service work, the billing for these services will be based on actual time and materials, with the not to exceed amount of \$96,500.

Construction must be performed this year in order to meet grant and regulatory permit deadlines. When bids for construction are received and reviewed, City Council action will be required to award the contract and supplement funding if necessary. Also note that the regulatory permits require post construction 5 year monitoring of the restored section of the creek, which will require additional professional services. A fee estimate for such services will be prepared when final regulatory permits are received.

## **FISCAL IMPACT**

Funds are available from account no. 320-3200-43600-219. The grant sources covering the overall project consist of a State EEM (Environmental Enhancement and Mitigation) grant, Bay Trail grants (Construction grant and a previously obtained Planning/design grant), a TDA (Transportation Development Act) grant, and Redevelopment bond proceeds.

**FISCAL IMPACT TABLE**

<b>Funding available</b>	<b>Fund Name</b>	<b>Fund Number</b>
<b>From:</b>	Capital Improvement Project	320
<b>Expenditure Account:</b>	320-3200-43600-219	<b>Amount: \$ 96,500</b>

**Attachments:**

Location Map

Amendment #5, Nichols Agreement (draft)

Proposal, Nichols, January 24, 2014

**RESOLUTION 2014-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO  
AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT #5 TO THE  
AGREEMENT WITH NICHOLS CONSULTING ENGINEERS, FOR THE WILDCAT  
CREEK TRAIL PROJECT (PW 219); WITH RESPECT TO THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES, A NOTICE OF  
EXEMPTION WAS FILED**

WHEREAS, the subject project is in the approved capital projects budget for the City;

WHEREAS, the design work for the Wildcat Creek Trail project (PW 219) has been underway by Nichols Consulting Engineers, Chtd., under a professional services Agreement with the City;

WHEREAS, it is necessary for Nichols to provide additional services as outlined in Amendment #5 to the Agreement;

WHEREAS, the cost of the additional Nichols work is estimated to be \$96,500;

WHEREAS, funding is available in the approved capital improvement project budget to cover the cost of the Nichols services;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Pablo hereby:

1. Authorizes the City Manager to execute Amendment #5 to the Agreement with Nichols Consulting Engineers, Chtd., in substantial conformance with the draft presented.
2. Declares that the recitations herein are true and correct, and are included herein by reference as findings.

\* \* \* \* \*

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote to wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

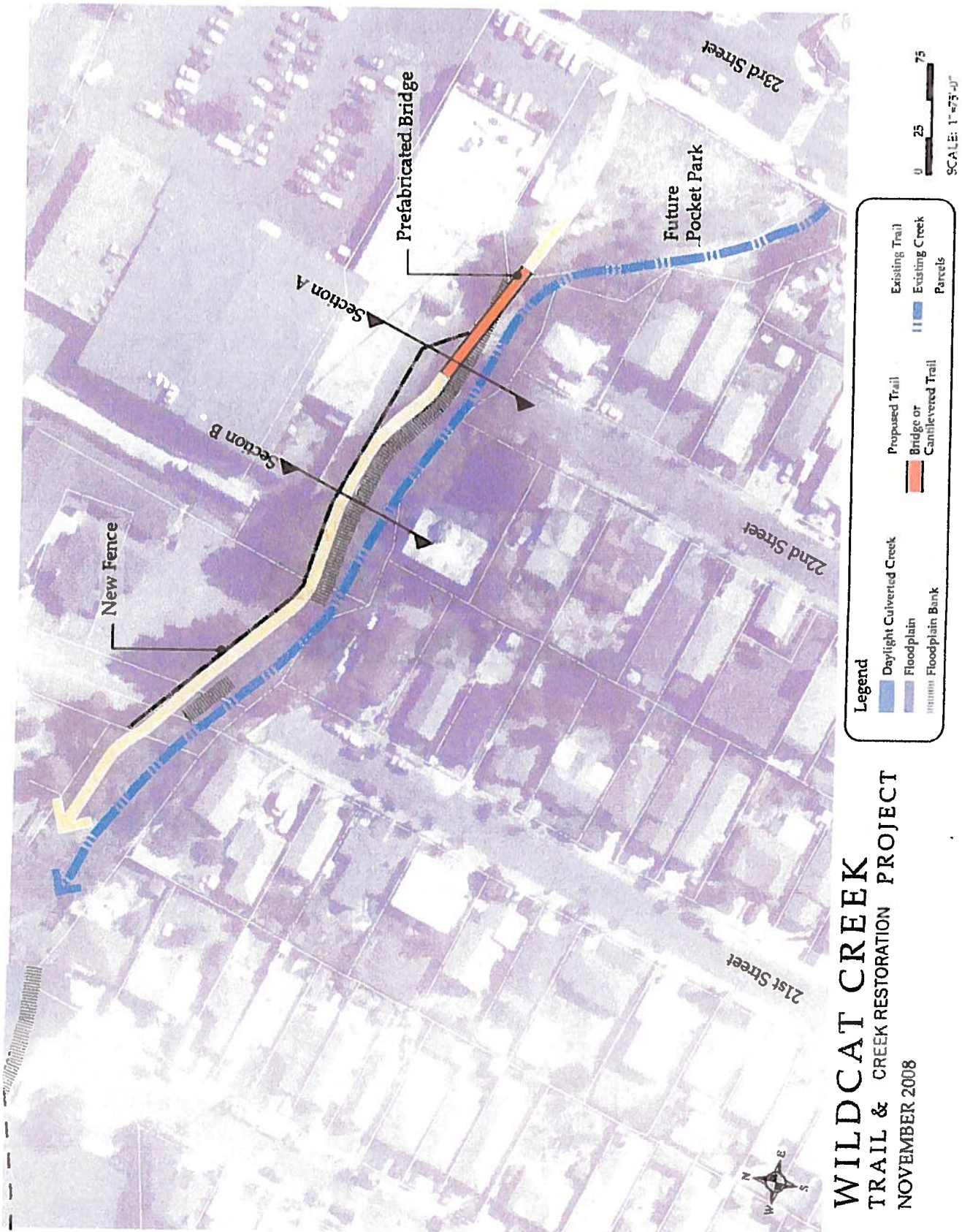
APPROVED:

\_\_\_\_\_  
Ted J. Denney, City Clerk

\_\_\_\_\_  
Paul V. Morris, Mayor



# Detailed Project Area Map



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CITY OF SAN PABLO  
*City of New Directions*

# CITY OF SAN PABLO

**Public Works Department**  
13831 San Pablo Avenue, Bldg. #3  
San Pablo, California 94806  
(510) 215-3030 • Fax (510) 215-3031

## Amendment No. 5

### Consultant Services Agreement Public Works Project No. PW 219

This Amendment between the City of San Pablo and Nichols Consulting Engineers, Chtd. ("Consultant"), dated for convenience January 30, 2014, is made pursuant to the provisions of the Agreement between the parties executed June 30, 2007. It is the intent of the parties to amend the terms and conditions of the Agreement as follows:

1. Scope of Services: Section "a)" of the Agreement is revised to include additional work described in the attached January 24, 2014 Proposal from Consultant, entitled "Wildcat Creek Update".
2. Compensation: Section "b)" of the Agreement is revised to reflect the estimated fees for the additional work covered by this Amendment, with a value of \$96,500. (Optional Task 5, valued at \$10,000 in the Proposal Fee Estimate, is excluded).
3. Termination: Provisions for termination of this Amendment shall be in accordance with Section "q" of the Agreement.
4. Time is of the Essence: Section "d)" and Section "ee)" ("Effective Date and Term") of the Agreement are revised to reflect a revised project schedule as exhibited in the attachment to the Consultant's Proposal and as presented in the "deliverables" section of the Proposal; consultant's services shall be completed in a timely manner to meet this project schedule. This Amendment covers work that has already been successfully performed and formalizes the authorized additional value of the agreement, which had previously been inadvertently omitted.
5. Nothing in this Amendment shall be construed as a waiver of either party's right to pursue any and all legal remedies for any prior breach of this Agreement.
6. Except as amended herein, all other terms and conditions of the original Agreement shall remain in full force and effect.

///

///

IN WITNESS WHEREOF, Consultant has executed this amendment, and the City, by its City Manager, who is authorized to do so, has executed this amendment.

CONSULTANT

Dated: \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

CITY OF SAN PABLO

Dated: \_\_\_\_\_

By \_\_\_\_\_

City Manager

Approved as to form:

Approved as to content:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Eng. Svc. Manager

Attachments:

Proposal dated January 24, 2014

Distribution:

Original - City Clerk

Copies –Engineering

Consultant

Note: The value of this amendment is greater than 15% of the council approved agreement value and therefore CC action is required.

(Subject Amd. 5 = \$ 96,500) ÷ (latest CC approved agreement value = \$ 244,600) = 39%

The revised overall agreement value, including Amd. 4, \$20,000 and this Amd. 5 is \$361,100.

There is adequate funding in the project budget to cover the cost of these additional services, under account 320-3200-43600-219.



January 24, 2014

539.04.20

Mr. Scott Christie  
Engineering Services Manager  
City of San Pablo  
One Alvarado Square  
13831 San Pablo Avenue, Bldg. 3  
San Pablo, California 94806

Proposal – Creek Restoration Redesign  
Wildcat Creek Trail Project  
City of San Pablo, California

Dear Mr. Christie:

NCE is pleased to provide this proposal to the City of San Pablo (City) for completion of design plans, specifications, and engineer's estimate (PS&E), and permitting services for the Wildcat Creek Trail Project located between 23<sup>rd</sup> Street and Davis Park in San Pablo, California. These services are in addition to the previously authorized work related to the trail design, which included the preparation of draft PS&E (geocell design), preparation of the Joint Aquatic Resource Permit Application (JARPA), an evaluation of alternatives to the geocell design in response to the San Francisco Regional Water Quality Control Board (RWQCB) rejection of this type of creek bank stabilization on Wildcat Creek, and the preparation of a memorandum evaluating the hydraulic capacity of creek bank stabilization measures featuring a low-rise retaining wall, riprap and pole plantings as suggested by the RWQCB.

## **PROJECT BACKGROUND**

We are currently contracted with the City to develop trail and creek enhancement construction drawings along an approximately 900-foot stretch of Wildcat Creek, located near Brookside Drive from 23<sup>rd</sup> Street to Davis Park in San Pablo, California. This trail segment will provide extension of the existing trail beginning at the Bay and ending at Davis Park and will eventually provide a critical link to the San Francisco Bay Trail and Ridge Trails. The proposed project also includes a gateway park on an undeveloped 0.25 acre parcel near 23<sup>rd</sup> Street as well as a

Richmond, CA  
501 Canal Blvd., Suite I  
Richmond, CA 94804  
(510) 215-3620

pre-fabricated pedestrian bridge to address tight space constraints as the trail approaches the loading dock area of an adjacent shopping center.

NCE submitted the Draft Final PS&E and JARPA documents for review by outside permitting agencies for the project with a geo-cell creek bank restoration concept. Based on feedback from the San Francisco Regional Water Quality Control Board (SFRWQCB) including a memorandum dated May 16, 2011, the SFRWQCB did not agree with the use of geo-cells and requested consideration of alternative bioengineered creek bank stabilization methods.

Following a field meeting on September 4, 2013, RWQCB staff requested that riprap and pole plantings in combination with a low-rise retaining wall be designed instead of the previously featured geocell design. Subsequently, NCE prepared and submitted on October 1, 2013 a memorandum evaluating the hydraulic capacity of the design proposed by the RWQCB. Based on this memorandum the RWQCB issued a 401 permit dated November 27, 2013.

*It should be noted that on the Wildcat Creek Trail and Bank Stabilization Project the San Francisco Regional Water Quality Control Board (RWQCB) has dictated to the City and NCE the design of the bank stabilization measures on the right bank of Wildcat Creek between 23rd Street and Davis Park in order to obtain a 401 permit. NCE believes there is case law which is very clear that regulatory agencies at the Federal and State Level are prohibited from dictating design which requires the stamp of a licensed engineer. Although the design will be structurally stable and hydraulic modeling has shown the water surface elevations to remain at or below existing levels, NCE does not believe the design directed by the RWQCB is either appropriate for the site or the best design for meeting water quality and biological objectives. NCE is bringing this to the City's attention as you may want to consult your legal counsel on this issue. If other regulatory agencies raise concern or will not permit the project due to the design elements or if there are future biological issues at the site as a result of the design, it will be in the interest of NCE and the City to put the RWQCB on notice regarding their inappropriate and potentially illegal actions and their responsibility/ownership for any future issues.*

The U.S. Army Corps of Engineers (USACE) has additional questions on the project based on the previous submittal. The National Marine Fishery Services (NMFS) also has questions that must be addressed and these agencies must be notified of the revised project. The California Department of Fish and Wildlife (CDFW) has issued a 1600 permit for the project based on the previous submittal. For the existing permit, the implementation of a number of mitigation measures is required.

To complete the design and enable the City to construct the project in 2014, NCE proposes the following scope of services:

## **SCOPE OF SERVICES**

### **Task 1: Project Management and Meetings**

NCE's Project Manager will coordinate with the City a Kick-off with all of the involved stakeholders to initiate work on the project. NCE understands that the objectives of the Kick-off Meeting will be:

- Review of the Scope of Work
- Confirm lines of communication
- Confirm Project Schedule and Milestones

Additionally, at the Kick-off Meeting, the key deliverables and schedule for each task will be reviewed and adjusted accordingly to meet the City's needs. It is critical to establish effective lines of communication with, and coordination amongst, the various project stakeholders from the start of this project. These may include, but are not limited to, City staff from the Public Works Department, private utility companies, and owners of adjacent properties.

NCE staff will be available to attend design review meetings with City staff (assume 2 two-hour meetings – one of these would be the 90% design review meeting) to discuss the project and to maintain good communications. The purpose of these meetings would be to identify and resolve any design issues that may surface in a timely manner, present design alternatives and recommendations thereon to City staff, and continue coordination with project stakeholders as necessary.

*Deliverables – Kickoff/progress meeting agendas and minutes; monthly progress reports and invoices*

### **Task 2: Bank Stabilization Work Plan**

NCE will prepare and submit a proposed work plan (Work Plan) for construction of the Project, for review and approval by the RWQCB, no later than February 1, 2014. This Work Plan will include an approximate time schedule for implementation of the Project, specifically to include timing the installation of the willow/rock lower bank stabilization work during the dormant stage for the willow cuttings, or, at the earliest, in late September during the year of construction. If the willow/rock layering work cannot be done during the dormant period, specific reasons will be detailed in the Work Plan. The Work Plan will also include a detailed narrative

description of the construction methods for layering the willow, soil and rock for the bank stabilization work. The Work Plan will include a requirement that the willow placement work be supervised or implemented by an individual who has experience installing this type of willow/rock revetment in locations where successful willow survival and growth has been demonstrated. The anticipated amount of soil and willow within each lift will be provided to guide the construction.

*Deliverables: Draft and Final Bank Stabilization Work Plan in hard copy and pdf-format; Final Bank Stabilization Work Plan to be submitted to RWQCB for approval;*

### **Task 3: Final Hydraulic Modeling of Project Reach**

Based on the detailed design of the creek bank stabilization measures (low-rise retaining wall, riprap and pole plantings), NCE will provide final hydraulic modelling for the project reach. For this effort, NCE will build upon the preliminary hydraulic modelling that was performed and submitted to the City on October 1<sup>st</sup>, 2013. The result of the modelling effort will be summarized in a technical memorandum.

*Deliverables: Technical Memorandum in pdf-format;*

### **Task 4: 90% and 100% Design Documents (Re-design of Creek Bank Stabilization Measures)**

The NCE team will revise the Draft Final Project Plans (dated April 9, 2013) to remove the geocell related design elements and to reflect the low-rise retaining wall, riprap and pole plantings constituting the creek bank stabilization measures as described in the 401 permit. The civil engineering plan sheets will be revised to reflect the permitted design approach, to provide new details and layout of the design. NCE will subcontract with a structural engineer to provide structural design, calculations, details, specifications, and cost estimates for the low-rise retaining wall. In addition, NCE will develop appropriate geotechnical recommendations for appropriate earth pressures in support of the structural design of the wall.

It is anticipated that the following revised civil and structural plan sheets will be included in the plan set:

- Trail Plan and Profile (2 sheets)
- Creek Bank Stabilization Plan and Elevation (2 sheets)
- Cross Sections (2 sheets)
- Horizontal Control Plan
- Civil Sections and Details (2 sheets)
- Structural Notes

- Structural Sections and Details (2 sheets)

The landscape and electrical engineering plan sheets will be revised accordingly reflecting the revised civil base drawing.

The specifications and cost estimate will also be revised to reflect the design changes. NCE will complete 90% PS&E design documents reflecting re-design changes and based on review comments by the City and outside permitting agencies will develop 100% PS&E to be issued for bidding and construction.

*Deliverables: 90% PS&E in full size hard copy and pdf-format; 90% plans in pdf-format and half-size for submittal to RWQCB for approval; 100% PS&E in full size hard copy and pdf-format;*

#### **Task 5: Storm Water Pollution Prevention Plan (SWPPP) - OPTIONAL TASK**

At the request of the City and to facilitate permitting with the permitting agencies, NCE will prepare a Storm Water Pollution Prevention Plan (Preliminary SWPPP) in accordance with the NPDES Construction General Permit (CGP, Order No. 2009-0009-DWQ). The SWPPP will be developed by NCE, provided to the City and the Contractor for review and discussion, and NCE will then prepare the final SWPPP. The SWPPP will identify potential pollutants and their sources, propose Best Management Practices (BMPs) that will eliminate, control, or treat all non-storm water discharges, propose BMPs that are effective and result in the reduction or elimination of pollutants in storm water discharges and authorized non-storm water discharges from construction activity, and include information that supports the conclusions, selections, use, and maintenance of BMPs.

The SWPPP will also provide guidance on storm event sampling, monitoring, reporting, and record keeping. While NCE will serve as the Qualified SWPPP Developer (QSD) per the requirements of the CGP, the City (or Contractor) will be required to provide a Qualified SWPPP Practitioner (QSP) who will implement the SWPPP. NCE will provide relevant training and coordinate with the Contractor QSP in order to 1) revise the SWPPP as necessary and 2) provide NCE with relevant Permit Registration Documents (PRDs) for submittal to the Water Board. All PRDs must be submitted through the California Storm water Multiple Applications and Report Tracking System 2 (SMARTS). A City representative will serve as the Legally Responsible Person (LRP) and NCE will serve as one of the Data Submitters (DS). NCE's DS will work with the QSP to compile and submit all PRDs to SMARTS while the LRP will certify the PRDs prior to their submittal to the Water Board. NCE will coordinate with the City to establish and link the LRP and DS SMARTS accounts.



**Task 6: As-built Report**

Within 60 days of completing construction, including installation of the willow/rock bank stabilization work and the retaining wall, NCE will submit an as-built report for the Project to the Water Board. The as-built report will include photographs of the willow/rock layering during construction at representative locations along the reach, and pre- and post-construction photographs of the area where willow/rock layering will be placed, including the stream channel immediately upstream and downstream of this area.

To document channel and bank conditions along the Project reach, including the willow/rock bank stabilization and the retaining wall, a minimum of 15 photo-documentation points will be established at the site, including the channel immediately upstream and downstream of the work. NCE will prepare site maps with the photo-documentation points clearly marked. Following construction, NCE will photographically document the condition of the bed and banks of Wildcat Creek from these photo-documentation points. The photographs and the map with the locations of the photo-documentation points will be submitted along with the as-built report.

*Deliverables: As-built Report;*

**Task 7: Dewatering Plan – OPTIONAL TASK**

If dewatering is necessary in order to perform the work then NCE will submit a dewatering plan for review and approval by Water Board staff prior to implementation. The dewatering activities, including the area to be dewatered, timing of dewatering, and method of dewatering, will be consistent with the approved plans. The temporary dewatering methods will be designed to have the minimum necessary impacts to waters of the State to isolate the immediate work area. The dewatering methods will be laid out such that natural flow is maintained upstream and downstream of the Project area. Any temporary dams or diversions will be laid out with the goal that the diversion does not cause sedimentation, siltation, or erosion upstream or downstream of the Project area;

*Deliverables: Dewatering Plan if needed based on construction schedule;*

**Task 8: Permitting**

NCE will submit a brief memorandum to agencies on the revised design approach, including the retaining wall and the disuse of geo-cells. In consultation with the City, NCE will propose conceptual mitigation measures such as planting trees off

site. Agencies are the USACE, NMFS, and CDFW. NCE will solicit feedback on the re-design.

NCE will also submit conceptual design drawings showing the retaining wall to the agencies and request feedback from the agencies and respond to their questions. NCE will draft monitoring plans, which the RWQCB has required, and work out any additional mitigation measures negotiations with NMFS. NCE will liaison with the agencies and follow up to acquire permits. NCE will conduct the pre-construction surveys required by the CDFW, and address the following Streambed Alteration Agreement (SAA) mitigation requirements as required in the 1600 permit:

- 2.2 Tracking of weather reports and conducting site inspections and erosions control measures if rain is predicted during the construction phase.
- 2.4 Pre-construction surveys for nesting birds.
- 2.5 Pre-construction surveys for California Red Legged Frog (CRLF). If the creek is dry, we may be able to have this requirement waived, since there are no other suitable habitats such as ponds and wetland nearby.
- 2.6 CRLF protective measures.
- 2.7 Bat surveys.
- 2.8 Alameda whipsnake surveys and avoidance.
- 2.9 Western pond turtle pre-construction surveys and daily surveys.
- 2.10 Fish surveys and re-location.
- 2.11 San Pablo songbird surveys.
- 2.12 White-tailed kite surveys.
- 2.13 Monarch butterfly surveys.
- 2.14 SSS plant surveys.
- 2.17 Biological monitor present during earth-moving activities.
- 2.20 Pre-construction training.
- 3.4 Tree replacement.
- 3.8 Post-construction monitoring (not included in scope).
- 4.2 Reporting requirements.
- 4.3 Photo-documentation.
- 4.6 CNDDDB reporting.
- 4.7 Annual reports (not included in scope).

NCE will confirm how many trees will be removed, based on the revised design, and re-negotiate with CDFW the prospect of re-planting off site. A subcontractor, Swaim Biological Inc. (SBI), will be required for conducting surveys for CRLF and Alameda whipsnake.

For SAA mitigation measure 2.17, we recommend that we negotiate the requirement for a biological monitor to be present during earth moving activities

with the CDFW for the revised permit. We think this level of effort is unwarranted if there is no water in the creek. Currently this is not in our scope of work, but can provide additional scope and fee should this be required.

SAA requirements for 4.2 Reporting requirements, 4.3 photo-documentation, and 4.6 CNDDDB reporting are already covered in the as-built report task. Mitigation requirements 3.8 Post-construction monitoring and 4.7 Annual reports are not included in this scope of work but will be completed for additional scope and fee based on negotiations with the agencies and final requirements. If SSS are found to be present, our costs may increase and will be communicated and negotiated with the City for additional scope and fee as necessary. Our permitting scope does not include payment of any agency permit fees.

*Deliverables: Technical memorandum on revised design and any additional proposed mitigation measures; Pre-construction survey report; Pre-construction training brochures.*

#### **TASK 9: Services During Bidding**

NCE will provide the City with assistance during the advertisement and bidding periods for the project. This will include preparation of verbal and written responses to questions received about the project design, and preparation of any addenda and/or clarifications to the PS&E that are deemed necessary. NCE can also assist the City in determining the responsiveness of bids received, with checking and tabulating bid results, and with developing recommendations for award of a construction contract to the City Council.

*Deliverables – Assistance with preparation of Addenda and RFIs*

#### **TASK 10: Construction Support and Project Record Drawings**

NCE will provide support services to the City during construction of the project. At a minimum, these services are anticipated to include attendance at the Pre-Construction Conference, reviewing Contractor submittals and responding to Contractor requests for information, providing recommendations for any necessary construction changes due to unforeseen field conditions, assisting with the review and approval of Contract Change Orders, reviewing construction for acceptance, including development of a Punch List, and preparation of Record Drawings from marked as-built plans supplied by the City's Contractor. The Record Drawings will be furnished to the City in both hard copy and electronic formats.

Additional construction support services that NCE can provide include attendance at periodic construction progress meetings, occasional or full-time on-site inspection

and documentation of the Contractor's work to verify compliance with the plans, specifications, and contract documents, sub-contracted materials testing services, including review of test reports, to verify that the test methods and frequencies are in accordance with the project QC/QA requirements, and reviewing and providing recommendations on the Contractor's construction schedule and/or work progress. These services are not included in this proposal but could be added for an additional fee if requested by the City.

*Deliverables - Assist in responding to construction related RFIs, review Contractor Submittals, Record Drawings (Mylar and electronic format)*

## **SCHEDULE**

The deliverables and the proposed deliverable date for each task are included in the attached schedule and are summarized as follows:

Tasks	Deliverable	Deliverable Date
Task 1	Project Management and Meetings	
Task 2	Bank Stabilization Work Plan	February 1, 2014
Task 3	Final Hydraulic Modelling of Project Reach	March 7, 2014
Task 4	90% and 100% Design Documents (Re-design of Creek Bank Stabilization Measures) Note: RWQCB requires Final Design Documents at least 45 days prior to the start of construction to allow for review and modification of the plans as needed.	March 7, 2014 (90% Submittal to City) 1 week of review by City  March 21, 2014 submit final 90% design drawings to review agencies  May 30, 2014 (100% PS&E)
Task 5	Storm Water Pollution Prevention Plan (SWPPP)	TBD
Task 6	As-built Report	60 days after construction is complete
Task 7	Dewatering Plan – OPTIONAL TASK	14 days prior to construction
Task 8	Permitting <ul style="list-style-type: none"> <li>Contact and submit conceptual revised design to agencies</li> <li>Pre-construction survey report and training brochures</li> </ul>	<ul style="list-style-type: none"> <li>Week of February 24, 2014</li> <li>14 days prior to construction</li> </ul>
Task 9	Services during Bidding	
Task 10	Construction Support and Project Record Drawings	

NCE will work closely with outside review agencies to help facilitate timely reviews by to the extent that we can, but ultimately have no control over agency review times.

### **FEE ESTIMATE AND CONTRACTING**

The proposed scope of services described above will be provided on a time-and-materials (T&M) basis using the previously submitted and attached schedule of charges for an estimated fee of \$106,500.

The estimated T&M fee for each task as described in section "Scope of Work" is as follows:

Tasks	Description	Fee
Task 1	Project Management and Meetings	\$4,000.00
Task 2	Bank Stabilization Work Plan	\$2,500.00
Task 3	Final Hydraulic Modeling of Project Reach	\$3,500.00
Task 4	90% and 100% Design Documents (Re-design of Creek Bank Stabilization Measures)	\$42,500.00
Task 5	Storm Water Pollution Prevention Plan (SWPPP) - OPTIONAL TASK	\$10,000.00
Task 6	As-built Report	\$2,500.00
Task 7	Dewatering Plan – OPTIONAL TASK	\$2,000.00
Task 8	Permitting	\$23,000.00
Task 9	Services During Bidding	\$6,000.00
Task 10	Construction Support and Project Record Drawings	\$10,500.00
	Total	\$106,500.00

This estimate is based on our current understanding of the project scope and site conditions. If unforeseen circumstances or changes in scope of services necessitate a budget revision, we will advise you prior to proceeding further. We will not exceed our estimated fee without your authorization.

#### CLOSING

NCE appreciates this opportunity to provide these services to the City of San Pablo. If there are any questions, please call Ryan Shafer at (510) 215-3620.

Yours very truly,



J. Ryan Shafer, PE, GE  
Associate/Division Manager  
Enclosed: Schedule of Charges, Schedule

Franz Haidinger, PE  
Associate

**NICHOLS CONSULTING ENGINEERS, Chtd.**  
**CITY OF SAN PABLO SCHEDULE OF CHARGES - 2010**



**PROFESSIONAL SERVICES**

Consulting Vice President.....	\$200/hour
Principal .....	\$190/hour
Associate/Project Manager .....	\$150/hour
Senior .....	\$135/hour
Project.....	\$110/hour
Staff.....	\$100/hour

**TECHNICAL SERVICES**

Senior Designer .....	\$90/hour
Senior Technician/Inspector .....	\$80/hour
CAD Draftsman.....	\$70/hour
Project Administrator.....	\$70/hour
Engineering Technician .....	\$70/hour
Field Technician .....	\$65/hour
Technical Word Processing .....	\$60/hour
Clerical .....	\$60/hour

**CONTRACT LABOR**

From time to time, NCE retains outside Professional and technical labor on a temporary basis to meet peak workload demands. Such contract labor will be charged at regular Schedule charges.

**LITIGATION SUPPORT**

Expert testimony in depositions, hearings, mediations, and trials will be charged at 300% of the above rates.

**EQUIPMENT**

CADD/Microcomputer .....	\$15/hour
Plotter Usage .....	(separate fee schedule)
Truck .....	\$10/hour
Automobile .....	IRS Standard Mileage Rate
Environmental Equipment.....	(separate fee schedule)

**OUTSIDE SERVICES**

Rental of equipment not ordinarily furnished by NCE and all other costs such as special printing, photographic work, travel by common carrier, subsistence, subcontractors, etc. ....cost+10%

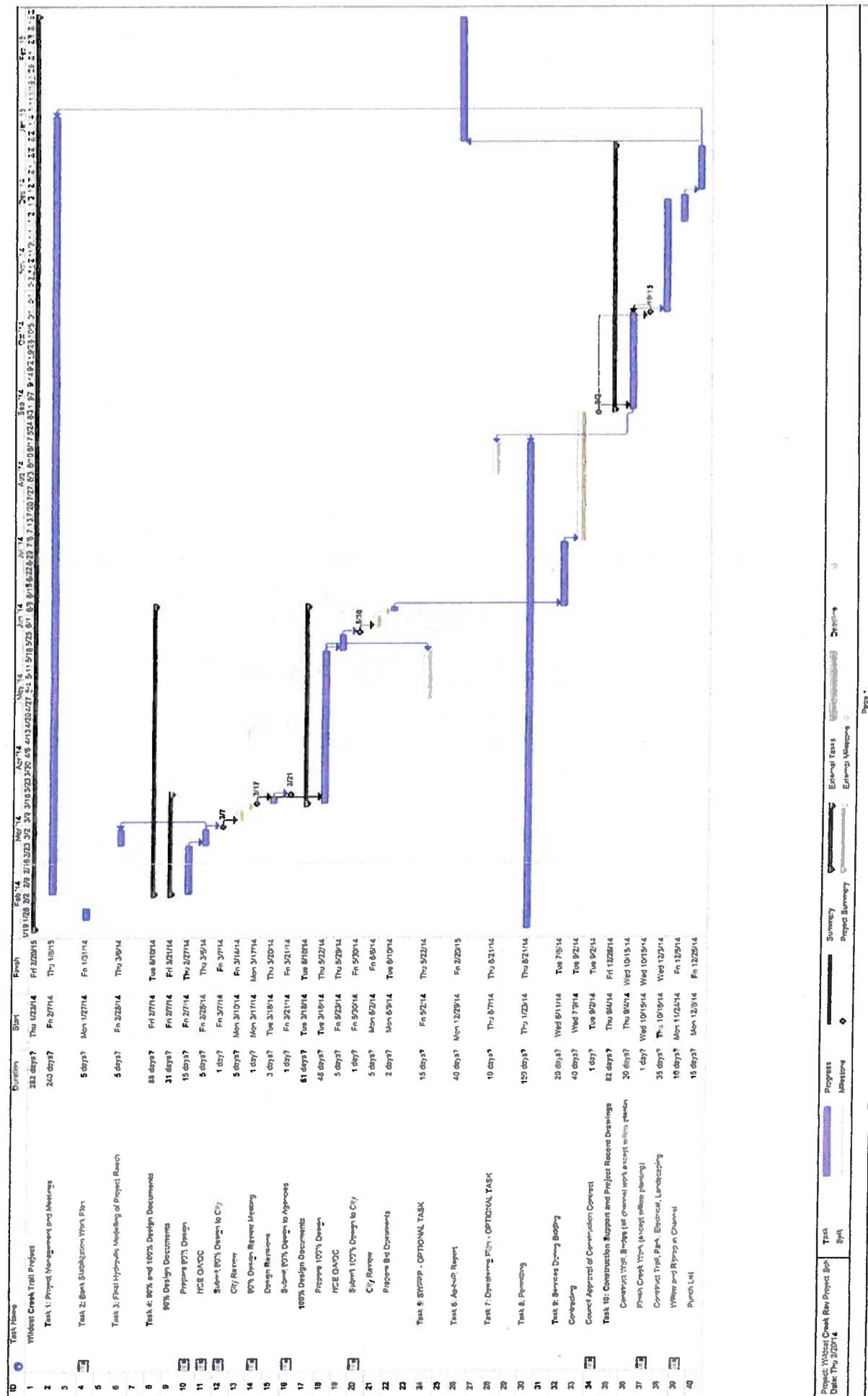
**COMMUNICATION/  
REPRODUCTION**

In-house costs for long-distance telephone, faxing, postage, standard printing and copying.....included in labor rates

Color or Oversize Printing.....	1.00/page
Plotter.....	\$2.25/foot

**TERMS**

Billings are payable upon presentation and are past due 30 days from invoice date. A finance charge of 1.5% per month, or the maximum amount allowable by law, will be charged on past-due accounts. NCE makes no warranty, either expressed or implied, as to its findings, recommendations, specifications, or professional advice except that they are prepared and issued in accordance with generally accepted professional practice.





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# REQUEST FOR COUNCIL ACTION



CITY of SAN PABLO  
*City of New Directions*

PREPARED BY: Greg Dwyer

DATE OF MEETING: March 3, 2014

DATE: February 24, 2014

PHONE: (510) 215-0381

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING THE CITY MANAGER TO ENTER INTO A LICENSE AND OPERATING USE AGREEMENT WITH THE PACIFIC COAST FARMERS' MARKET ASSOCIATION AND PALM PLAZA DEVELOPMENT, INC. FOR THE OPERATION OF THE 2014 AND 2015 SAN PABLO FARMERS' MARKETS

APPROVED:

  
DEPARTMENT HEAD

  
CITY MANAGER

  
CITY ATTORNEY

## RECOMMENDATION

Adopt Resolution.

## COUNCIL PRIORITY WORKPLAN

*The Farmers' Market* is an adopted policy item under the FY 2013-15 City Council Priority Work Plan, effective July 1, 2013.

## CEQA COMPLIANCE STATEMENT

This is not a project as defined by CEQA.

## BACKGROUND

The 2013 San Pablo Farmers' Market (ran in conjunction with Pacific Coast Farmers Market Association, PCFMA) began on May 18, 2013. The market was held on Saturday mornings, 10:00am–2:00pm and continued through October 26, 2013.

Staff met with the PCFMA in December of 2013 to begin planning for the 2014 Farmers' Market. Recommendations from the PCFMA were made with regards to some site clean-up in and around the area of the municipal parking lot where the Farmers' Market was held. At this meeting, formal discussions regarding dates and times for the next Farmers' Market were also held.

On February 3, 2014 staff gave the annual PCFMA Report to City Council updating Council on the 2013 San Pablo Farmers' Market. Staff received recommendations from City Council for improvements and requested authorization to seek an agreement for future Farmers' Markets with PCFMA.

The agreement (Attachment A) outlines the details for the 2014 Farmers' Market, which will be held again on Saturday mornings from 10:00am–2:00pm beginning May 17, 2014

### Departmental Coordination

☐ Comm. Services \_\_\_\_\_

☐ Police \_\_\_\_\_

☒ Finance 

☐ Public Works \_\_\_\_\_

and run through October 25, 2014. The Agreement stipulates that the Market may be extended beyond October if mutually agreed upon by all parties. Additionally, the Agreement may be extended for a second and third year if mutually agreed upon by all parties in writing.

The selected site for the Farmers' Market is located on San Pablo Avenue in a vacant lot between Walgreens and the municipal parking lot. Again, the Farmer's Market was well received by the community. Palm Plaza Development, Inc. currently owns the selected site for the 2013 Farmers' Market. The City, on behalf of the PCFMA, negotiated a multi-party License and Operation Use Agreement for the operation of the Farmers' Market to provide PCFMA a license and access to the Palm Plaza Development, Inc. property for this sole purpose. In summary, PCFMA will act as the sole operator of the market, will secure permits as needed from the Contra Costa Environmental Health Department, and will assign a Market Manager to handle the day-to-day operations. As the Market Sponsor, the City will have access to a space within the Market, to provide family entertainment (i.e. live performers, face-painters, bouncy house) for visitors, and provide shared costs for portable restrooms and a hand-washing station (outlined in Exhibit B-proposed expense sheet).

The San Pablo Lytton Casino Manager has been notified of the plans for the Farmers' Market. Currently, the Casino utilizes 75 parking spaces in the municipal lot for employee parking on Saturdays between 10:00am – 2:00pm. Approximately 18 handicapped spaces and 50 parking spaces in the back lot will be available for Farmers' Market visitors. City staff will work with the Casino to ensure minimal impacts to the Casino parking areas.

#### **FISCAL IMPACT**

Funding for this project in the amount of \$26,000 has already been approved and appropriated as part of the 2013/15 fiscal year adopted budget (account number 100-1110-44050-FARMER); therefore no additional funds are being requested at this time.

#### **Attachments:**

Attachment A – Draft Agreement

Attachment B – FY 2013-14 Budget (proposed expense sheet)

## RESOLUTION 2014-

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING THE CITY MANAGER TO ENTER INTO A LICENSE AND OPERATING USE AGREEMENT WITH THE PACIFIC COAST FARMERS' MARKET ASSOCIATION AND PALM PLAZA DEVELOPMENT, INC. FOR THE OPERATION OF THE 2014 AND 2015 SAN PABLO FARMERS' MARKETS

WHEREAS, Farmers' Market Promotion & Support is an adopted policy item under the FY 2011-13 City Council Priority Work plan; and

WHEREAS, on August 6, 2012, City Council approved Resolution 2012-113 authorizing a Farmers' Market Promotion and Support Plan Budget for San Pablo's first Farmers' Market; and

WHEREAS, the Pacific Coast Farmers' Market Association (PCFMA) operated a Saturday morning Farmers' Market from 9:00 am to 1:00 pm in the parking lot of the San Pablo Towne Center shopping complex June 23, 2012 through November 17, 2012; and

WHEREAS, the Pacific Coast Farmers' Market Association (PCFMA) operated a Saturday morning Farmers' Market from 10:00 am to 2:00 pm in the parking lot near the municipal parking from May 18, 2013 through October 26, 2013; and

WHEREAS, City Staff met with PCFMA staff in December 2013 to assess the 2013 Season and to begin planning for the 2014 Farmers' Market; and

WHEREAS, the 2014 Farmers' Market season is scheduled for Saturday mornings, 10:00 am to 2:00 pm, May 17, 2014 through October 25, 2014, and

WHEREAS, the City Manager transmitted a letter of commitment to PCFMA on January 23, 2014 confirming intent for future collaboration; and

WHEREAS, the City would also like to include the 2015 Farmers' Market season as well; and

WHEREAS, Funding for this project in the amount of \$26,000 has already been approved and appropriated as part of the 2013/15 fiscal year adopted budget (account number 100-1110-44050-FARMER); therefore, no additional funds are being requested at this time; and

WHEREAS, this is not a project defined by CEQA; and

NOW THEREFORE, BE IT RESOLVED that the foregoing recitations are true and correct, and are included herein by reference as findings.

BE IT FURTHER RESOLVED that the City Council of San Pablo authorizes the San Pablo Farmers' Market for the 2014 and 2015 Seasons.

\*\*\*\*\*

ADOPTED this 3<sup>rd</sup> day of March 2014, by the following vote to wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

\_\_\_\_\_  
Ted J. Denney, City Clerk

\_\_\_\_\_  
Paul V. Morris, Mayor

**LICENSE AND OPERATING AND USE AGREEMENT BETWEEN THE PACIFIC  
COAST FARMERS' MARKET ASSOCIATION (PCFMA), THE CITY OF SAN PABLO  
AND PALM PLAZA DEVELOPMENT, INC.**

This Operating Agreement ("Agreement"), executed as of this \_\_\_\_ day of \_\_\_\_ 2014, by and between the City of San Pablo, hereinafter referred to as "Sponsor," Pacific Coast Farmers' Market Association, a California non-profit mutual benefit corporation, hereinafter referred to as "Operator" or "PCFMA," and Palm Plaza Development, Inc., hereinafter referred to as "Owner."

**RECITALS:**

WHEREAS, local growers and small businesses make an essential contribution to the San Pablo community and to the well-being of residents; and

WHEREAS, the atmosphere of a farmers market appeals to local residents and visitors of all ages and backgrounds, creates a positive social experience, and provides nutritional, economic and educational benefits; and

WHEREAS, a farmers market supports the City of San Pablo's Healthy Eating Active Living (HEAL) efforts by enhancing healthy food opportunities and accessibility to affordable fresh produce; and

WHEREAS, the Sponsor, Operator and Owner are interested in establishing a community partnership that will provide a successful venue for a farmers' market; and

WHEREAS, operation of a farmers' market open to the public with visibility on San Pablo Avenue will further attract customers to San Pablo and to San Pablo businesses in its near proximity providing for potential increased sales and creating tax revenue; and

WHEREAS, the Sponsor is desirous of securing the services of the Operator for the operation of a Certified Farmers' Market and an adjacent area in which nonagricultural products will be sold (hereinafter referred to as "the Market") within the City of San Pablo; and

WHEREAS, the Operator is willing to serve as the operator of the Market, and the Owner is willing to provide space to the Operator for that purpose.

**TERMS:**

NOW THEREFORE, the Parties agree as follows:

1. Owner hereby grants to Operator and Sponsor an exclusive, irrevocable license to use that certain area (the "License Area") shown outlined on the plan of attached Exhibit "A" for the purpose of operating the Market (subject to the terms and conditions set forth herein) and for no other use or purpose.

2. Operator and Sponsor shall have the right to use the License Area (on the days and during the hours set forth in this Agreement), and this License shall extend from February 28, 2014 until November 23, 2015.
3. The License Area shall only be used for the purpose of operating the Market. Operator shall not operate the Market on any other property other than the License Area. Operator's operations at License Areas shall be pursuant to the following conditions:
  - (i) The Market will operate on Saturdays only, beginning on the third Saturday in May and ending on the final Saturday in October in each year of this Agreement.
  - (ii) The Market will operate from 10:00am to 2:00pm on those days it is scheduled to operate.
  - (iii) Operator will have access to License Area from 8:00am to 3:30pm on those days the Market is scheduled to operate.
  - (iv) The Market may be extended beyond October if mutually agreed upon by all parties in writing by September 30.
4. The Agreement shall begin upon signature by all parties and continue in effect until November 30, 2015, unless canceled according to the terms of this Agreement as detailed herein.
5. This Agreement may be extended for a second year if mutually agreed by all parties in writing between October 1, 2014 and February 28, 2015.
6. If this Agreement is extended for a second year as described above, the Agreement may be extended for a third year if mutually agreed by all parties in writing between October 1, 2015 and February 31, 2016.
7. Either party may cancel this Agreement for cause by providing 14 days written notice to the other party.
8. Either Operator or Sponsor may withdraw from this Agreement without cause by providing 14 days written notice to the other parties.

#### **RESPONSIBILITIES FOR OPERATOR:**

Operator shall:

1. Secure permits as needed from the Contra Costa Environmental Health Department as required for the legal operation of a Certified Farmers' Market and an adjacent area in which nonagricultural products may be sold.
2. Recruit and manage California certified agricultural producers to sell within the certified farmers' market portion of the Market and non-agricultural specialty food producers to sell within the adjacent area of the Market.

3. Designate a single market manager to handle all day-to-day market operations as they pertain to management of producers, load-in and load-out, customer relations, site preparation and clean up.
4. Enforce all state and local Agricultural & Health Regulations and serve as the on-going liaison with the Contra Costa County Agriculture Department and Contra Costa County Environmental Health Department.
5. Secure and maintain such permits as may be required by the City of San Pablo and County of Contra Costa for the legal operation of the Market on the License Area, including the payment of any fees as required by County or City.
6. Work with Sponsor on a continual basis to advertise, promote and market the Market in a mutually agreeable manner. This will include in each year of the market's operation:
  - (i) Develop an email database of Market customers and sending regular messages to customers advertising the Market and the Market's special events.
  - (ii) Coordinate and host a grand opening celebration on the first day of the Market's operation in each season.
  - (iii) Create and maintain a page on the PCFMA website dedicated to the Market, which includes information about producers participating in the Market, a schedule of Market events, and links to sponsoring organizations and other community groups.
  - (iv) Utilize print, electronic and/or other advertising mediums to promote the Market.
7. Include names, logos and other recognition of Market sponsors on signs and other collateral developed to promote the Market and assist Sponsor in identifying additional opportunities for promotion of sponsors.
8. Make a space within the market available to Sponsor each week of the Market's operation. Sponsor shall provide 72 hour notice to Operator of its intent to utilize such space, each week the market is in operation. Sponsor will provide all necessary equipment required to utilize the space, which may include tent, table, chairs and signage. Sponsor will accept the space assigned by the market manager and comply with the instructions of the market manager.
9. Work with producers in the market to ensure that all producers accept WIC/FMNP coupons and EBT tokens as allowed by law, and accept Carrot Cash vouchers or coupons issued by PCFMA.
10. Operator agrees it will not use or suffer or permit any person or persons to use the License Area or any part thereof for any other purpose or for any purpose in violation of the laws, ordinances, regulations and requirements of the City and County in which the License Area is situated or other lawful authorities.



11. Operator shall provide to Sponsor on a regular basis written reports of the operation of the Market including the number of agricultural producers, specialty food producers and other producers in the License Area each week, as well as estimates of the number of consumers shopping in the Market each week.
12. During the term hereof, the License Area and all property within a 25' radius of the License Area as outlined in Exhibit "A" shall be kept by Operator, in a clean and wholesome condition, free of any objectionable noises, odors or nuisances, and that all health, safety and police regulations shall, in all respects and at all times, be fully complied with by the Operator. If Operator fails to do so, Sponsor shall have the right to terminate this Agreement as set forth in Section 17. Alternatively, Sponsor may remedy the violations itself, and Operator shall reimburse Sponsor for the cost thereof, within ten (10) days of request therefore.
13. Operator will abide by and enforce Sponsor's rules concerning leafleting, political activity, and partisan activity within the License Area. Operator shall have sole discretion to determine participation in the "Merchant at the Market" area. Operator shall have sole discretion to determine participation in the "Community at the Market" area offered to non-profit, community organizations providing service to the San Pablo area. Operator shall defend, indemnify and hold harmless Sponsor and Owner and their officers, members, and employees harmless from and against any and all liability, claims, damages, suits, actions, causes of actions, costs and expenses (including attorneys' fees) arising during the term of this Agreement arising directly or indirectly, in whole or in part from the exercise of such discretion.
14. Operator covenants with Sponsor and Owner that neither Sponsor nor Owner shall be liable for damage or liability of any kind or for any injury to or death of persons or damage to property of Operator or any other person, firm or entity, from any cause whatsoever, by reason of the use, occupancy and enjoyment of the License Area by Operator or any other person, firm or entity., and that Operator will indemnify, defend and hold harmless Sponsor and Owner from all liability whatsoever, on account of any such real or claimed damage or injury and from all liens, claims and demands arising out of the use of the License Area.
15. Operator shall further indemnify, defend, and hold Sponsor and Owner, and their officers, members, and employees harmless from and against any and all liability, claims, damages, suits, actions, causes of actions, costs and expenses (including attorneys' fees) arising during the term of this Agreement as a result of bodily injury, personal injury, property damage, or in violation of any Federal, State, or municipal law or ordinance or other cause in connection, stemming directly or indirectly, in whole or in part, from the activities of Operator their agents or employees or on account of the performance or character of the work.
16. Operator further covenants and agrees that it will carry and maintain, during the entire term hereof, at Operator's sole cost and expense, Comprehensive General Liability Insurance insuring Sponsor, Owner and License Area against claims for injury to or death of any person or damage to property in connection with the use of the License Area and operation

of the Market thereon, in an amount not less than Two Million and No/100 Dollars (\$2,000,000.00) combined single limit coverage.

Prior to Operator entering the License Area, Operator shall provide to Sponsor and Owner appropriate certificate(s) of insurance specifically naming Sponsor and Owner as "Additional Insured."

17. In the event of any failure by Operator and/or any grower or vendor utilizing any portion of the License Area to perform the obligations of, or comply with the requirements of this Agreement, (including, without limitation, the failure of Operator to prevent any of its vendors or growers from interfering with the operation of the property) and if such situation continues for five (5) days after written notice from Sponsor specifying such condition, the Sponsor may, at its election, terminate this Agreement upon fifteen (15) days written notice to Operator and immediately upon the end of each fifteen (15) day period remove Operator's property and that of anyone claiming through Operator from the License Area.
18. Should any damage occur to the License Area, that is caused by Operator, its growers or vendors, then Operator shall within ten (10) days of request therefore pay to Owner the cost of any such repairs resulting therefrom.
19. Sponsor shall be entitled to injunctive relief to prevent any interference by Operator in the normal operation of the property, and/or to prevent nuisance or waste in the property.
20. Operator assumes all risk for its personal property installed on the License area. Operator shall make no alterations to the License Area or install any improvements thereon.
21. Operator accepts the License Area in "as is" condition. Sponsor and Owner make no representation to Operator as to the suitability of the License area for the purposes contained herein.
22. Operator shall have no right to assign or otherwise transfer its interest in this Agreement.
23. Operator shall share costs equally with Sponsor for such storage and portable ADA accessible toilet facilities deemed necessary by Operator, including equipment storage and hand washing accessible to Operator each day of the Market's operation.

#### **RESPONSIBILITIES FOR SPONSOR:**

Sponsor shall:

1. Work with Operator on a continual basis to advertise, promote and market the Market in a mutually agreeable manner.
  - (i) Including regular promotional messages for the Market email newsletters. Plus additional marketing material agreed upon by both Sponsor and Operator. (See exhibit B)

- (ii) Assisting in grand opening celebration on the first day of the Market's operation in each season.
  - (iii) Provide weekly trash pickup at site location.
- 2. Designate a single point of contact for issues relating to the Market and communicate with the Operator's market manager on a regular basis to discuss the progress of the Market.  
  
No agricultural items or other food products that would fall under the jurisdiction of county health regulations may be sold within the area designated for the "Merchant at the Market" or the "Community at the Market".
- 3. Advise Operator 30 days in advance of any activity that may affect the ability of Operator to utilize the License Area or that may impact the number of consumers in the Market on any day of operation.
- 4. Sponsor shall be responsible for 100% costs equally with Operator for such storage and portable ADA accessible toilet facilities deemed necessary by Operator, including equipment storage and hand washing accessible to Operator each day of the Market's operation.
- 5. Provide weekly entertainers/music and family friendly activities, such as bouncy house and face painting each day of the Market's operation.

**ADDITIONAL CONSIDERATIONS:**

- 1. The admission of producers to the Market shall be at the sole discretion of the Operator.
- 2. Operator and Sponsor shall jointly organize a "Merchant at the Market" program and a "Community at the Market" program to operate during the Market. The programs will be subject to the following rules:
  - (i) The space provided for the "Merchant at the Market" and the "Community at the Market" programs will not exceed that necessary for a single 10 foot by 10-foot booth per week.
  - (ii) No agricultural items or other food products that would fall under the jurisdiction of county health regulations may be sold within the area designated for the merchant at the market or the community at the market.
  - (iii) Space in the area designated for the "Merchant at the Market" program and "Community at the Market" program will be provided without charge to eligible participants.
  - (iv) Participation in the "Community at the Market" area will be limited to non-profit, community organizations providing service to the San Pablo area. Admission of participants to the "Community at the Market" area will be at the sole discretion of Sponsor.
  - (v) Admission of participant to the "Merchant at the Market" area will be at the consideration of the Sponsor or such group or entity jointly designated by

- Operator and Sponsor.
- (vi) All those participating in the "Merchant at the Market" and "Community at the Market" area will submit a signed statement agreeing to abide by the PCFMA Rules and Regulations and instructions of the PCFMA market manager before participating.
  - (vii) During the course of the Market, including the set-up and breakdown time, the PCFMA market manager will have the authority to enforce any and all rules and regulations within the area designated for the "Merchant at the Market" and "Community at the Market" area.
3. Sponsor and Operator and Owner expressly acknowledge and agree that it is the express intent of the parties that this Agreement be construed as an operating Agreement and license and as such it conveys no possessory interest, leasehold interest or other interest in any real property, including, without limitation, the license area. Sponsor and Operator further expressly acknowledge and agree that this license grants to Operator only permission to use the license area and such privilege confers no title, interest or estate in the license area to Operator. Furthermore, Operator covenants that it will take no action inconsistent with the foregoing, including but not limited to making any claim that it has any benefits (such as a leasehold estate or interest) arising out of this license other than those specifically set forth herein.
  4. This Agreement does not constitute a hiring by either party. It is the parties' expressed intention that Operator, its agents, and employees shall be independent contractors to Sponsor, and shall not be considered to be an employee of Sponsor. The parties hereto are and shall remain independent contractors bound by the provisions of this Agreement.
  5. This Agreement contains the entire Agreement between the parties, and all prior understandings and agreements between the parties are merged into this Agreement. This Agreement may be changed or modified only by a writing executed by the party against whom enforcement thereof is sought.
  6. Any notices required to be made or given pursuant to this Agreement, shall be effective if made in writing and sent by registered or certified mail, return receipt requested to:

Sponsor: City Of San Pablo  
13831 San Pablo Avenue  
San Pablo, CA 94806

Operator: Pacific Coast Farmers' Market Association  
5060 Commercial Circle Suite A  
Concord, CA 94520

Owner: Palm Plaza Development, Inc.  
441 West 10<sup>th</sup> Street  
Pittsburg, CA 94565

7. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by Sponsor and Operator and Owner as of the date first above written.

**SPONSOR**

**CITY OF SAN PABLO**

By: \_\_\_\_\_

Matt Rodriguez, City Manager

Date: \_\_\_\_\_

**OPERATOR**

**PACIFIC COAST FARMERS' MARKET ASSOCIATION**

BY: \_\_\_\_\_

John Silveira, Executive Director

Date: \_\_\_\_\_

**OWNER**

**PALM PLAZA DEVELOPMENT, INC.**

BY: \_\_\_\_\_

Art Pakpour, Property Manager

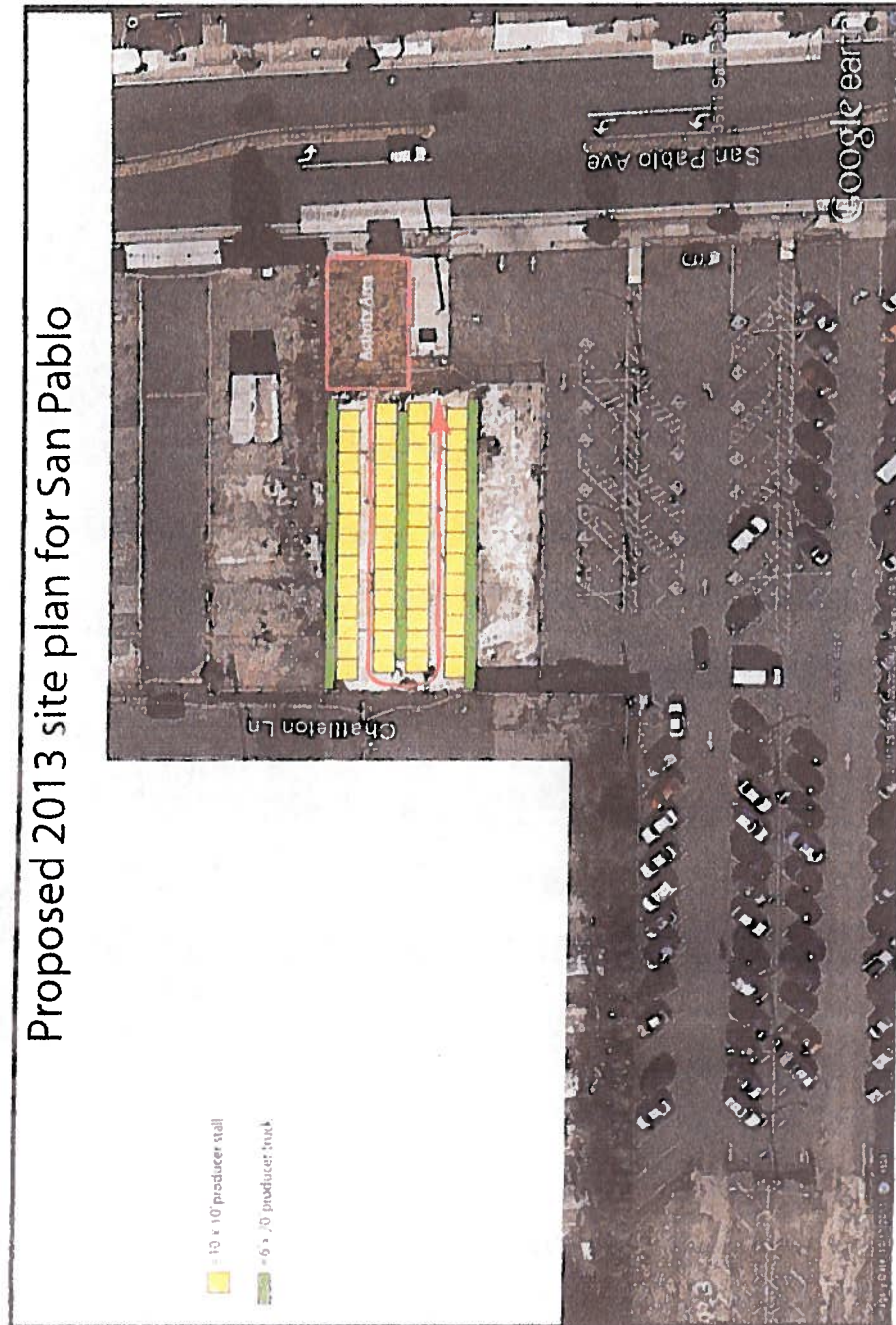
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**Exhibits:**

Exhibit A – Proposed Site Plan for San Pablo

Exhibit B – Proposed Expense Sheet for Budget

**EXHIBIT A – Proposed 2013 Site Plan**





### Exhibit B – Proposed Expense Sheet for Budget

Category	Estimated Quantity	Estimated Cost per Unit	Estimated Subtotal
<b>Advertising</b>			
Postcards	3,000	\$2.00	\$6,000.00
Vinyl Banners	4	\$200.00	\$800.00
Fliers	2,500	\$0.25	\$625.00
Produce Promotion	6	\$100.00	\$600.00
Air Dancers	2	\$500.00	\$1,000.00
Passport Promotion			
Prize	1	\$800.00	\$800.00
Carrot Cash	1	\$900.00	\$900.00
Produce	1	\$600.00	\$600.00
<b>Advertising Costs Total</b>			<b>\$11,325.00</b>
<b>Entertainment</b>			
Musician	24	\$80.00	\$1,920.00
Bounce House (purchase generator)	1	\$2,500.00	\$2,500.00
Facepainting Supplies	1	\$100.00	\$100.00
			\$0.00
<b>Entertainment Costs Total</b>			<b>\$4,520.00</b>
<b>Community Outreach</b>			
Healthy Food Healthy You Class (Fresh Approach)	3	\$300.00	\$900.00
			\$0.00
			\$0.00
<b>Community Outreach Costs Total</b>			<b>\$900.00</b>
<b>Site Improvement</b>			
Table Cloth	2	\$20.00	\$40.00
Patio Umbrellas	2	\$90.00	\$180.00
Port A Potty	1	\$1,100	\$1,100.00
<b>Site Improvement Costs Total</b>			<b>\$1,320.00</b>

<b>Facepainting</b>	96	\$20.00	\$1,920.00
<b>Bounce House</b>	96	\$20.00	\$1,920.00
<b>Staffing Costs Total</b>			<b>\$3,840.00</b>
<b>Contingency Costs Total</b>			<b>\$4,000.00</b>
<b>ESTIMATED MARKETING GRAND TOTAL</b>			<b>\$25,905.00</b>



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# REQUEST FOR COUNCIL ACTION



CITY OF SAN PABLO  
City of New Directions

PREPARED BY: Greg Dwyer

DATE OF MEETING: March 3, 2014

DATE: February 19, 2013

PHONE: (510) 215-3081

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO TO APPROVE CHILDHOOD OBESITY PREVENTION TASK FORCE (COPTF) APPOINTMENTS AND APPROVE CONSOLIDATION OF THE CHILDHOOD OBESITY PREVENTION TASK FORCE TO A SINGLE GOVERNING BODY.

APPROVED:

  
DEPARTMENT HEAD

  
CITY MANAGER

  
CITY ATTORNEY

## RECOMMENDATION

Adopt Resolution.

## BACKGROUND

### **FY 2013-15 Council Priority Workplan**

Develop Childhood Obesity Prevention Task Force // Strategic Work Plan is an adopted policy item under the FY 2013-15 City Council Priority Work plan.

## CEQA COMPLIANCE STATEMENT

This is not a project as defined by CEQA.

On January 9, 2012, City Council authorized the establishment of a Citywide Childhood Obesity Prevention Task Force (COPTF) (Resolution 2012-008) to develop an overall Strategic Plan for addressing the growing childhood obesity epidemic in San Pablo. Several policy objectives identified by the COPTF Subcommittee included:

- Address/Identify Community-wide program in San Pablo (i.e. Community Needs Survey);
- Create a Council Ad-Hoc Subcommittee to develop policy recommendations for the City Council for future program and policy development;
- Develop a Legislative Action Plan with State and Federal Legislators;

### **Departmental Coordination**

☐ Dev. Services \_\_\_\_\_  
☐ Police \_\_\_\_\_

☒ Finance   
☐ Public Works \_\_\_\_\_

- Disseminate information contained in the UCLA and CCPHA study, *A Patchwork of Progress: Changes in Overweight and Obesity Among California 5<sup>th</sup>, 7<sup>th</sup> and 9<sup>th</sup> Graders*, 2005-2010;
- Interface with community stakeholders, community service organizations, County and State public health agencies, and other public health advocacy partners;
- Expand new policy objectives to the Council Priority Work plan;
- Explore Future Funding Mechanisms (i.e. Local Soda Tax);
- Explore establishment of a Community-wide Task Force on Childhood Obesity;
- Explore contractual and professional services to develop, enhance and/or promote community outreach efforts on Childhood Obesity Prevention and Healthy Eating Active Living Programs.

On March 7, 2012, the San Pablo City Council hosted its first Childhood Obesity Prevention Task Force meeting bringing awareness to the growing childhood obesity epidemic in the community. Representatives from over 20 agencies/programs including County, City, non-profit, community-based and faith-based agencies, schools, and medical organizations attended.

Over the past year and a half, the Steering Committee has provided leadership and guidance to the general members of the COPTF by setting goals, prioritizing needs and assisting in fulfilling overall collaborative goals. Through the Steering Committee and CPTF efforts, this leadership group developed recommendations for future activities, programs and services to combat the increasing levels of childhood obesity in San Pablo.

The recommendations were incorporated in a Community Action Plan that will guide future activities, programs and services to combat the increasing levels of childhood obesity in San Pablo.

On February 20, 2014, the Steering Committee membership recommended that the committee be eliminated and combined with the Task Force, so that the COPTF will become a single governing body to make recommendations to City Council to address the childhood obesity epidemic in the city of San Pablo.

The following individuals were formally invited to serve as a Task Force member for a one year period and to attend meetings at least six times yearly:

1. Adriana Vasquez, Member – West County Regional Group
2. Alexina Rojas, Director – West County First Five Center
3. Aja Green, Community Representative – West County Regional Group
4. Angeles Lopez, Member – West County Regional Group
5. Astrid Flores, Chair – San Pablo Youth Commission
6. Carmen Arroyo, Resident – City of San Pablo
7. Charlotte Dickson, HEAL Cities Campaign Director – California Center for Public Health Advocacy
8. Coire Reilly, Manager – Contra Cost Health Services
9. Emily Warming, Program Manager – Healthy and Active Before 5
10. Flor Castro, Member – West County Regional Group
11. Gabi Rivas, Community Liaison -- First Five Contra Costa
12. Jan Schilling, Executive Director – Weigh of Life
13. Jesus Verduzco, Consultant – Verduzco and Associates

14. Karel Villalobos, Member – West County Regional Group
15. Lucy Alfaro – West County Regional Group – **Task Force Co-Chair**
16. Melody Ocampo, Recreation Supervisor – City of San Pablo
17. Michele Rodriguez, Development Services Manager – City of San Pablo
18. Patrice Chamberlain, Program Coordinator – Summer Meal Program Coalition
19. Petronila Fernandes, Member – West County Regional Group
20. Ruth Vasquez-Jones, Community Affairs Director, Brookside Community Health Center
21. Saidy Brizuela, Treasurer – San Pablo Youth Commission
22. Soledad Garcia, Member – West County Regional Group
23. Sophia Talbot, Nutritionist – Community Services Bureau, Head Start
24. Tomasa Espinoza, Chair – West County Regional Group
25. Tony Ramirez, Teacher – Dover Elementary School – **Task Force Chair**
26. Tanya Rovira, Nutrition and Food Security Coordinator – Contra Costa Health Services, Community Wellness and Prevention Program

Upon acceptance, individuals will join City Manager Matt Rodriguez, Councilmember Genoveva Calloway, Mayor Paul Morris and Community Services Manager, Greg Dwyer, as members of the COPTF.

With City Council's formal authorization of the COPTF as the single governing body, Task Force meetings will be subject to the Brown Act.

### **FISCAL IMPACT**

There are no fiscal impacts at this time.

Attachment:

Childhood Obesity Prevention Task Force By-laws

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## RESOLUTION 2014-

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO TO APPROVE CHILDHOOD OBESITY PREVENTION TASK FORCE (COPTF) APPOINTMENTS AND APPROVE CONSOLIDATION OF THE CHILDHOOD OBESITY PREVENTION TASK FORCE TO A SINGLE GOVERNING BODY

WHEREAS, Develop Childhood Obesity Prevention Task Force // Strategic Work Plan is an adopted policy item under the FY 2013/15 City Council Priority Workplan; and

WHEREAS, on January 9, 2012, City Council authorized the establishment of a Citywide Childhood Obesity Prevention Task Force (COPTF) (Resolution 2012-008) to develop an overall Strategic Plan for addressing the growing childhood obesity epidemic in San Pablo; and

WHEREAS, on March 7, 2012, the San Pablo City Council hosted its first Childhood Obesity Prevention Task Force meeting bringing awareness to the growing childhood obesity epidemic in the community; and

WHEREAS, the convening of the Task Force represented the first step towards strengthening partnerships in the fight against the growing childhood obesity epidemic in the community; and

WHEREAS, the Ad-Hoc Subcommittee formally established a Steering Committee to provide leadership and guidance to the general members of the COPTF by setting goals, prioritizing needs and assisting in fulfilling overall collaborative goals; and

WHEREAS, the Steering Committee embarked on a community awareness and education program to gauge and solicit feedback from community residents, community service organizations, and other non-profit organizations about the importance of combating this growing epidemic in the San Pablo community; and

WHEREAS, this leadership group developed a Community Action Plan with recommendations for future activities, programs and services to combat the increasing levels of childhood obesity in San Pablo; and

WHEREAS, on February 20, 2014, the Steering Committee membership recommended that the Steering Committee be eliminated and combined to a Task Force only, so that the COPTF will become a single governing body making recommendations to City Council to address the childhood obesity epidemic in the City of San Pablo; and

WHEREAS, the following individuals were formally invited to serve as a Task Force member for a one year period and to attend Task Force meetings at least six times yearly:

1. Adriana Vasquez, Member – West County Regional Group
2. Alexina Rojas, Director – West County First Five Center
3. Aja Green, Community Representative – West County Regional Group
4. Angeles Lopez, Member – West County Regional Group

5. Astrid Flores, Chair – San Pablo Youth Commission
6. Carmen Arroyo, Resident – City of San Pablo
7. Charlotte Dickson, HEAL Cities Campaign Director – California Center for Public Health Advocacy
8. Coire Reilly, Manager – Contra Cost Health Services
9. Emily Warming, Program Manager – Healthy and Active Before 5
10. Flor Castro, Member – West County Regional Group
11. Gabi Rivas, Community Liaison -- First Five Contra Costa
12. Jan Schilling, Executive Director – Weigh of Life
13. Jesus Verduzco, Consultant – Verduzco and Associates
14. Karel Villalobos, Member – West County Regional Group
15. Lucy Alfaro – West County Regional Group – **Task Force Co-Chair**
16. Melody Ocampo, Recreation Supervisor – City of San Pablo
17. Michele Rodriguez, Development Services Manager – City of San Pablo
18. Patrice Chamberlain, Program Coordinator – Summer Meal Program Coalition
19. Petronila Fernandes, Member – West County Regional Group
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23. Sophia Talbot, Nutritionist – Community Services Bureau, Head Start
24. Tomasa Espinoza, Chair – West County Regional Group
25. Tony Ramirez, Teacher – Dover Elementary School – **Task Force Chair**
26. Tanya Rovira, Nutrition and Food Security Coordinator – Contra Costa Health Services, Community Wellness and Prevention Program

WHEREAS, upon acceptance, individuals will join City Manager Matt Rodriguez, Mayor Paul Morris, Councilmember Genoveva Calloway, and Community Services Manager, Greg Dwyer on the Task Force; and

WHEREAS, with City Council's formal authorization of the elimination of the COPTF Steering Committee, Task Force meetings are subject to the Brown Act; and

WHEREAS, successful applicants will be selected by the COPTF Ad-Hoc Subcommittee;

WHEREAS, this is not a project defined by CEQA; and

NOW THEREFORE, BE IT RESOLVED that the foregoing recitations are true and correct, and are included herein by reference as findings.

BE IT FURTHER RESOLVED that the City Council of San Pablo formalizes Childhood Obesity Prevention Task Force (COPTF) appointments.

\*\*\*\*\*

Adopted this 3<sup>rd</sup> day of March, 2014, by the following vote to wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

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Ted J. Denney, City Clerk

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Paul Morris, Mayor



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## **CHILDHOOD OBESITY PREVENTION TASK FORCE (COPTF)**

### **OPERATING PROCEDURES**

(Revised Feb. 2014)

The following rules are hereby adopted for the conduct of all official business of the Childhood Obesity Prevention Taskforce.

*The mission of the San Pablo Childhood Obesity Prevention Task Force (COPTF) is to work collaboratively with all stakeholders to develop strategies to encourage the community to "Eat Smart, Get Moving" in order to reduce and prevent obesity and other health risks of unhealthy eating and lack of physical activity among all children in San Pablo.*

#### **I. PURPOSE**

The purpose of the COPTF will be setting direction, prioritizing needs and assisting in fulfilling overall collaborative goals.

The goals of the Childhood Obesity Prevention Taskforce are to:

- Increase healthy eating and physical activity opportunities for San Pablo residents by fostering supportive policies and environments.
- Educate the community about healthy eating and physical activity issues.
- Increase physical activity in school, homes and community.
- Improve availability of affordable, quality, local fruits and vegetables and foods in the home and in the community.
- Implement policies and goals identified in the City's Health Element (General Plan 2030)
- Accomplishing COPTF's mission and goals.
- Providing leadership and support to COPTF Subcommittees in accomplishing their work plans, goals, and objectives.
- Representing the issues and concerns of the community.
- Being aware and informed of the programs and activities that contribute to the mission of COPTF.
- Regularly attending the COPTF meetings as scheduled.
- Helping plan the program for general meetings.
- Assisting with policy development and strategic planning, as needed.
- Promoting, representing, and recruiting for COPTF.

### III. MEMBERSHIP

Nominations for new members shall be submitted in writing to the COPTF coordinator to be placed on the agenda of a regularly scheduled COPTF meeting. Nominations shall be accepted November 1 to 31.

Nomination acceptance is based on the majority vote ruling and requires review by the COPTF. The formal appointment will take place at a regularly scheduled City Council meeting by the City Council. Two seats shall be open for youth participation and one seat shall be open for a resident.

COPTF members have voting rights and decisions will be based on a majority vote ruling of those members present. A quorum shall be necessary to transact business; 50% plus one of the members shall constitute a quorum.

### IV. ABSENCE AND REMOVAL OF MEMBERS

The City Council has the authority to appoint or remove any member of the COPTF members at any time, for any or no reason, by a majority vote of the Council.

When a member of the COPTF has missed two meetings with no compelling reason, the member will receive a warning and at the third absence the question of that person's continuance on the COPTF. Continuation of that person's membership requires a two-thirds vote of the COPTF. The Coordinator shall keep an attendance record and inform any member by letter when he/she has two absences.

### V. OFFICERS

The COPTF, in November of each year, select from their own membership a Chair and Vice-Chair by nomination and majority vote. The Chair and Vice-Chair serve as facilitators to provide leadership to the COPTF and other meetings as scheduled, including but not limited to General Meetings.

**The Chair** shall preside at all meetings of the COPTF and shall appoint standing of special committees as may be necessary to carry out the COPTF's business, and may elect to share these tasks with the Vice-Chair.

**The Vice-Chair** shall preside at COPTF meetings in absence of the Chair, shall assume leadership responsibilities as determined by the Chair and shall assist the Chair in fulfilling his/her responsibilities as needed.

In the absence of the Coordinator, the Chair and/or Vice-Chair may assign a minutes-taker for the meeting and shall ensure that the written minutes are provided to the Coordinator

## **VI. COPTF COORDINATOR**

One member of City Staff will serve as coordinator to the Steering Committee. Such coordinator shall provide direct support to the Chair and Vice-Chair and assist in the coordination of the activities of the COPTF, which may include: preparing and distributing meeting agendas; taking notes at COPTF meetings; typing and distributing meeting minutes and other relevant information; securing a meeting room or bridging a line for all committees as needed, promoting COPTF meetings, keeping COPTF records; and ensuring completion of COPTF assigned tasks as appropriate.

## **VII. OPERATING PROCEDURES REVISION**

The COPTF will review the Operating Procedures at least annually with input from the general members. The revised Operating Procedures will be taken to the full membership for approval.

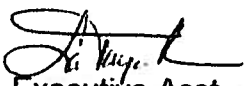
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# REQUEST FOR CITY COUNCIL ACTION



CITY of SAN PABLO

City of New Directions

PREPARED BY: LaTanya Fisher, Executive Asst.  DATE OF MEETING: March 3, 2014

DATE: February 25, 2014

PHONE: (510) 215-3006

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING FEE WAIVER FOR USE OF THE MADEIRA ROOM IN MAPLE HALL FOR THE WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY (RECYCLEMORE) AND THE WATERSHED PROJECT BYE BYE BASURA WORKSHOP ON SATURDAY, MARCH 29, 2014.

APPROVED: 

DEPARTMENT HEAD

CITY MANAGER

CITY ATTORNEY

## RECOMMENDATION

Authorize Fee Waiver. The City Manager recommends adoption of said Resolution.

## COMPLIANCE STATEMENTS

### FY 2013-14 Council Priority Workplan Compliance Statement

*Fiscal Resiliency Policies: Spending Cap & Facility Use Policy for Maple Hall Waivers and Spending Cap & Special Event Sponsorships (Discretionary Spending)* are adopted policy items under the FY 2013-14 Council Priority Workplan, effective July 1, 2013.

### CEQA Compliance Statement

This is not a project as defined by CEQA.

## BACKGROUND

On February 21, 2014, the City's Recreation Department received a request for the use of the Madeira Room for a Bye Bye Basura workshop for residents of San Pablo and West Contra Costa County that will focus on reducing waste and litter, increasing recycling in schools. This program integrates pollution prevention and watershed protection with cultural and educational exchange with a school in San Pablo's Sister City in Manzanillo, Mexico. The workshop will instruct teachers, parent volunteers, and informal educators in implementations of the standard-based curriculum and student-based activities for Bye Bye Basura. RecycleMore is requesting a waiver of the room rental and facility fees for the Madeira Room.

Departmental Coordination

☐ Dev. Services \_\_\_\_\_

☐ Police \_\_\_\_\_

☒ Finance  \_\_\_\_\_

☐ Public Works \_\_\_\_\_

The West Contra Costa Integrated Waste Management Authority (RecycleMore) is the regional recycling and waste management agency for West County. RecycleMore is a Joint Powers Agency comprised of the Cities of El Cerrito, Hercules, Pinole, San Pablo, Richmond and unincorporated west county area. Councilmember Cecilia Valdez represents the City of San Pablo on the Board of Directors.

Fee waiver includes booking fee, base rental fee, insurance fee, additional city staff and deposit. The West Contra Costa Integrated Waste Management Authority (RecycleMore) and the Watershed Project Bye Bye Basura will be responsible for the cost of city staff (Building Attendant - \$140) and Liability Insurance (\$107.40).

#### **FISCAL IMPACT**

A total of \$25,000 has been budgeted and earmarked for Maple Hall Waivers under the Adopted FY 2013-15 Two-Year Biennial Operating Budget – City Council Department (100-1110-44050). The authorized Madeira Room/Maple Hall fee waiver in the amount of \$635 will be deducted from this expense balance leaving a remaining balance of \$16,313 for the remainder of FY 2013-14 period for future waiver authorizations by the City Council.

<b>Item</b>	<b>Rate/hour</b>	<b># of hour</b>	<b>Cost</b>
Davis Park MultiPurpose Room	\$0/hour (Group Rate)	6 hours	*\$120
Application Fee	\$15 flat fee		*\$15
Building attendant & Set up	\$20/hour	6 hours	\$120
Liability Insurance			\$107.40
Security Deposit	\$500 flat fee		*\$500
<b>*Total Fees Waived</b>			<b>\$635</b>

## **RESOLUTION 2014-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING FEE WAIVER FOR USE OF THE MADEIRA ROOM IN MAPLE HALL FOR THE WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY (RECYCLEMORE) AND THE WATERSHED PROJECT BYE BYE BASURA WORKSHOP ON SATURDAY, MARCH 29, 2014.**

WHEREAS, *Fiscal Resiliency Policies: Spending Cap & Facility Use Policy for Maple Hall Waivers and Spending Cap & Special Event Sponsorships (Discretionary Spending)* are adopted policy items under the FY 2013-14 Council Priority Workplan, effective July 1, 2013; and

WHEREAS, On February 21, 2014, the City's Recreation Department received a request for the use of the Madeira Room for a Bye Bye Basura workshop for residents of San Pablo and West Contra Costa County that will focus on reducing waste and litter, increasing recycling in schools; and

WHEREAS, This program integrates pollution prevention and watershed protection with cultural and educational exchange with a school in San Pablo's Sister City in Manzanillo, Mexico; and

WHEREAS, The workshop will instruct teachers, parent volunteers, and informal educators in implementations of the standard-based curriculum and student-based activities for Bye Bye Basura; and

WHEREAS, RecycleMore is requesting a waiver of the room rental and facility fees for the Madeira Room. The West Contra Costa Integrated Waste Management Authority (RecycleMore) is the regional recycling and waste management agency for West County; and

WHEREAS, RecycleMore is a Joint Powers Agency comprised of the Cities of El Cerrito, Hercules, Pinole, San Pablo, Richmond and unincorporated west county area. Councilmember Cecilia Valdez represents the City of San Pablo on the Board of Directors; and

WHEREAS, Fee waiver includes booking fee, base rental fee, insurance fee, additional city staff and deposit. The West Contra Costa Integrated Waste Management Authority (RecycleMore) and the Watershed Project Bye Bye Basura will be responsible for the cost of city staff (Building Attendant - \$140) and Liability Insurance (\$107.40); and

WHEREAS, A total of \$25,000 has been budgeted and earmarked for Maple Hall Waivers under the Adopted FY 2013-15 Two-Year Biennial Operating Budget – City Council Department (100-1110-44050). The authorized Madeira Room/Maple Hall fee waiver in the amount of \$635 will be deducted from this expense balance leaving a remaining balance of \$16,313 for the remainder of FY 2013-14 period for future waiver authorizations by the City Council.



NOW THEREFORE, BE IT RESOLVED, the City Council of San Pablo authorizes the fee waiver for the use of the Madeira Room/Maple Hall for the West Contra Costa Integrated Waste Management Authority (RecycleMore) and the Watershed Project Bye Bye Basura Workshop on Saturday, March 29, 2014

\*\*\*\*\*

ADOPTED this 3rd day of March, 2014, by the following vote to wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

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Ted J. Denney, City Clerk

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Paul Morris, Mayor

# Community Grants and Special Events Line-item (100-1110-44050)

## FY 2013/14 City Council Budget

### Maple Hall Fee Waivers

	Request	Total Avail	CC Agenda
1 FY 2013/14 Budget Adoption	\$ 25,000	\$ 25,000	6/3/13
2 Courageous Women Association	\$ 1,050	\$ 23,950	7/15/13
3 CoCo County Library Town Hall Mtg	\$ 203	\$ 23,747	8/5/13
4 Coco County Mental Health Retreat	\$ -	\$ 23,747	9/3/2013
5 Rotary - Ragin Cajun	\$ 1,425	\$ 22,322	9/3/2013
6 SP Cowboy Youth Assn. (Madeira Room)	\$ 823	\$ 21,499	12/2/2013
7 SP Baseball Assn. (Maple Hall)	\$ 823	\$ 20,676	1/13/14
8 Rotary - 7th annual holiday dinner(Davis Pai	\$ 865	\$ 19,811	1/13/14
9 One Circle Found. Girls Circle Training	\$ 1,283	\$ 18,528	2/3/14
10 SP Baseball Assn. (Maple Hall)	\$ 615	\$ 17,913	2/3/14
11 SP Youth Soccer Club Registration	\$ 965	\$ 16,948	2/3/14
12 The Watershed Project/Recyclemore	\$ 635	\$ 16,313	3/3/14
13		\$ 16,313	
14		\$ 16,313	
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24		\$ 16,313	
25		\$ 16,313	

### Special Event Annual Sponsorship

	Request	Total Avail	CC Agenda
1 FY 2013/14 Budget Adoption	\$ 15,000	\$ 15,000	6/3/13
2 CC College Golf Tourney	\$ 2,500	\$ 12,500	8/5/13
3 North Richmond Shoreline Festival	\$ 2,500	\$ 10,000	9/3/2013
4 San Pablo Chamber Lifetime Achievmt	\$ 320	\$ 9,680	9/3/2013
5 4th Annual Youth Summit (Davis Park)	\$ 240	\$ 9,440	9/16/2013
6 Lytton Casino Annual Golf Tournament	\$ 5,000	\$ 4,440	9/15/2013
7 Weigh of Life Fundraiser	\$ 1,000	\$ 3,440	9/15/2013
8 Los Cenizontes Supporting Roots Campaign	\$ 3,000	\$ 440	9/15/2013
9		\$ 440	
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# REQUEST FOR COUNCIL ACTION



CITY OF SAN PABLO  
City of New Directions

PREPARED BY: John Medlock *JM*

DATE OF MEETING: March 3, 2014

DATE: February 19, 2014

PHONE: 510- 215-3063

**SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO ORDERING THE ENGINEER TO PREPARE AND FILE REPORTS FOR THE LEVY OF ANNUAL ASSESSMENTS FOR FISCAL YEAR 2014/15 FOR SAN PABLO STREET LIGHTING AND LANDSCAPE ASSESSMENT DISTRICT NO. 1982-1, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THESE SERVICES WITH LCC, INC.**

APPROVED: *[Signature]* *[Signature]* *[Signature]*

DEPARTMENT HEAD

CITY MANAGER

CITY ATTORNEY

## RECOMMENDATION

Adopt resolution.

## BACKGROUND

Street Lighting and Landscape Assessment District No. 1982-1 provides funding for servicing and maintenance of street lighting, landscaping, parks and public facilities including City Hall and the Senior Center. Each year, the City is required to have an Engineer's Report prepared and filed with the County in order to collect the assessments. The engineering firm of Leptien, Cronin, Cooper, Morris & Poore, Inc. (LCC, Inc.) has provided these services since the formation of the assessment district in 1982. This resolution initiates the preparation of the Engineer's Report for Fiscal Year 2014/15.

In FY 2014/15, new improvements or substantial changes in existing improvements include:

- New pedestrian traffic signal on Market Avenue and 19<sup>th</sup> Street
- replacement of existing street trees, planting of new street trees, and replacement of damaged sidewalk caused by existing street trees
- Handicap ramps at the Wildcat Creek Trail crossing on Brookside Drive
- Community Center at Helms Middle School
- Solar panels for Senior Center to offset energy cost

Following are some of the improvements anticipated in the FY 2015/16 year:

- Improvement to Wildcat Creek Trail between Davis Park and 23<sup>rd</sup> Street
- New pedestrian traffic signal devices on Rumrill Blvd and Folsom Avenue

### Departmental Coordination

☐ Comm. Services \_\_\_\_\_

☐ Police \_\_\_\_\_

☒ Finance *[Signature]*  
☐ Public Works \_\_\_\_\_

- Replacement of aging play structure at Davis Park
- New landscaping at City Hall courtyards
- New Rumrill Sports Park
- New Wayfinding and Identification signs for City Recreational facilities

LCC, Inc. has submitted a proposal to perform engineering services necessary to provide an Engineer's Report pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIID of the State Constitution (Proposition 218), for continuation of the existing San Pablo Street Lighting and Landscape Assessment District No. 1982-1 for Fiscal Year 2014/15. The cost of these engineering services are on a time and materials basis, with a total fee not to exceed \$19,200.

LCC, Inc. has provided excellent service to the City since the formation of the assessment district in 1982. It is because of the firm's familiarity with this assessment district and the particular services required, and their unique expertise that staff recommends continued use of their services. Staff is recommending that a contract be approved and that the Assessment District Engineer be directed to proceed with the preparation of the Engineer's Report for San Pablo Street Lighting and Landscape Assessment District No. 1982-1 for FY 2014/15.

#### **FY 2014-15 Council Priority Workplan**

The Street Lighting and Landscape Assessment District provides funding for Infrastructure: Park and Median Island Maintenance, which is an adopted policy item under the FY 2014-15 City Council Priority Workplan.

#### **FISCAL IMPACT**

There is no impact to the General Fund associated with this resolution. Funds needed to cover the cost of the contract with LCC, Inc. are being budgeted within the FY 2014/15 Street Lighting and Landscape Assessment District fund budget, account no. 205-2110-43600.

ACTION	FROM: Fund / Account Code	AMOUNT	TO: Fund / Account Code	AMOUNT
Appropriate	Street Lighting & Landscaping 205-2110-43600	\$19,200		

Attachments: LCC, Inc. Proposal dated February 7, 2014

P:\street lighting and landscape AD\1415\lmgcal.doc

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote to  
wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:  
ATTEST:

APPROVED:

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Ted J. Denney, City Clerk

---

Paul Morris, Mayor

**RESOLUTION NO. 2014-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO ORDERING THE ENGINEER TO PREPARE AND FILE REPORTS FOR THE LEVY OF ANNUAL ASSESSMENTS FOR FISCAL YEAR 2014/15 FOR SAN PABLO STREET LIGHTING AND LANDSCAPE ASSESSMENT DISTRICT NO. 1982-1, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THESE SERVICES WITH LCC, INC.**

WHEREAS, Leptien, Cronin, Cooper, Morris & Poore, Inc. (LCC, Inc.) has submitted a proposal to perform engineering services to the City;

WHEREAS, these services are necessary to provide an Engineer's Report pursuant to the provisions of the Landscaping and Lighting Act of 1972 for continuation of the San Pablo Street Lighting and Landscape Assessment District No. 1982-1 for Fiscal Year 2014/15; and

WHEREAS, LCC, Inc. has served as Assessment District Engineer since the formation of the assessment district in 1982.

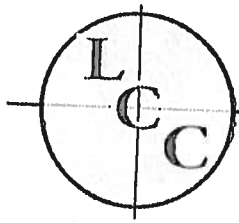
NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Pablo hereby finds that the foregoing recitations are true and correct, and are included herein by reference as findings.

BE IT FURTHER RESOLVED, that the City Council of the City of San Pablo hereby directs the Assessment District Engineer to prepare and file an Engineer's Report for San Pablo Street Lighting and Landscape Assessment District No. 1982-1 for Fiscal Year 2014/15, in accordance with Article 4 (commencing with Section 22565) of Chapter 1 of the Landscaping and Lighting Act of 1972, and Proposition 218.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute a contract for said work with the engineering company of LCC, Inc., and that said work shall be performed for an amount not to exceed the sum of \$19,200 (Nineteen Thousand, Two hundred Dollars), to be paid from the FY 2014/15 Street Lighting and Landscaping Assessment District fund budget.

BE IT FURTHER RESOLVED, that proposed new improvements or substantial changes in existing improvements are generally described as: lighted pedestrian traffic signal on Market Avenue and 19<sup>th</sup> Street, Rumrill Blvd and Folsom Avenue ; replacement of existing street trees, planting of street trees, and replacement of damaged sidewalk caused by existing street trees; handicap ramps at the Wildcat Creek Trail crossing on Brookside Drive; Community Center at Helms Middle school; Solar panels for the Church Lane Senior Center to offset energy cost; Improvement to Wildcat Creek Trail between Davis Park and 23<sup>rd</sup> Street; Rumrill Sports Park; new play structure at Davis Park; landscaping at City Hall courtyards; Wayfinding and identification signs for City Recreational facilities.

\*\*\*\*\*



LEPTIEN, CRONIN, COOPER, MORRIS & POORE, Inc.

Civil Engineering - Land Surveying

February 7, 2014

Principals  
Randolph W. Leptien  
Christopher Leptien, P.E.

Founded 1954  
Guenther K. Leptien  
1923-2000

Frank J. Cronin  
1926-2003

Isabel Cooper  
1926-2011

Former Principals  
Albert A. Morris  
John W. Poore, Sr.

John Medlock  
PW Maintenance & Operations Manager  
City of San Pablo  
13831 San Pablo Avenue  
San Pablo, CA 94806

Subject: San Pablo Street Lighting and Landscape  
Assessment District No. 1982-1  
2014-15 Fiscal Year

## PROPOSAL FOR ENGINEERING SERVICES

Dear Mr. Medlock,

Leptien, Cronin, Cooper, Morris & Poore, Inc. (LCC, Inc.) has served as the Engineer of Work for Assessment District No. 1982-1 since its formation. We are very pleased to submit this proposal to provide Assessment District engineering services for the 2013-14 fiscal year.

### I SCOPE OF SERVICES

We propose to serve as Engineer pursuant to the provisions of the Landscaping and Lighting Act of 1972 (1972 Act) and that of Article XIII D of the State Constitution. We will prepare an engineer's report, as required by the 1972 Act to provide for the continuance of the Assessment District. As Assessment District Engineer, we propose to provide the following services:

#### A. Annual Assessment District Proceedings and Engineer's Report

1. Meet with City Staff to determine budget requirements.
2. Secure an electronic copy of the Contra Costa County Assessor's Roll.
3. review the files for revisions or adjustments that may be required due to communications from the public and/or Staff investigations.
4. Review changes in land use within the District during the last fiscal year.
5. Update the assessment diagram.

Mailing Address:

LCC Inc.  
930 Estudillo Street  
Pittsburg, California  
94553-1620  
(925) 228-4218  
Fax (925) 228-4638  
www.lcc-inc.com



6. Develop 2014-15 FY cost estimates.
7. Produce a report that will apportion the total estimated cost according to the method approved by the City Council.
8. Assist City Staff with the preparation of an informational report with regard to the diagram, cost estimate, assessment, and presentation of the report to the City Council.
9. Review the Resolutions for the annual levy and collection of assessments.
10. Furnish four (4) bound copies of the Engineer's Report to the City Clerk.
11. Assist City Clerk with the publishing of the required notice (Resolution of Intention) in a newspaper of general circulation.
12. Attend the public hearing upon the matter of the assessment and respond to questions.
13. Make minor modifications to the report as may be required by Staff or Council.
14. Make technical revisions reflecting changes in the 2014-15 FY Tax Roll.
15. Prepare and submit the assessments in a format sufficient to enable the County Auditor to place the assessments on the 2014-15 fiscal year Property Tax Roll.
16. Respond to inquiries concerning Assessment District matters.

#### **B. Updates to Assessment District Reporting**

1. Assist City Staff with a review of Maintenance Management Systems (MMS) that would coordinate with the District.
2. Assist City Staff with developing line item budgets for specific work areas in the City's new MMS that will coincide with the Assessment District's cost estimate.
3. Work with City Staff on estimates of cost including incidental expense for each category of activity for the new fiscal year.
4. Attend progress meeting, if requested.

#### **C. Assumptions for Services**

We assume the following:

1. The City Attorney or other legal counsel as appointed by the City will furnish legal services.
2. The City will provide copies of District financial data including projections of income and expense for fiscal year 2013-14.

3. The City will provide budget levels for fiscal year 2014-15 and estimates for subsequent years.
4. The City will identify changes in land use during the last fiscal year and furnish us with copies of final maps, development plans, and improvement plans as needed, for identified changes and for proposed developments.
5. We assume that the City will furnish us with Assessor's Parcel Maps and a copy of the current digital file of the City's Base Map when it is available.
6. The report will be based upon the existing public data obtained from the City and County records.
7. Our proposal for services is based upon the continued use and application of the existing Assessment District methodology first approved by the City Council in 1982 and amended in 1991.
8. Assessments will not be increased and the assessment will be exempt from the procedures and approval process set forth in Section 4 of Article XIII D by virtue of the District's having received majority voter approval at the general election held in November of 1996.
9. The City's MMS Consultant will provide the programming necessary to track the costs in the work areas that are being developed to coincide with the Assessment District cost estimates.
10. The MMS data for the Assessment District will be accepted and imported into the City's existing GIS program.
11. The City's GIS Consultant will produce final maps showing the categories developed for the Assessment District.
12. The assessment will represent our opinion of the estimated special benefits to be received by each property, respectively, from the improvements. This opinion will be offered according to our experience and professional judgment under current State Law. We cannot guarantee this opinion will meet future court interpretations of Assessment District law. We have not included time and expense to perform studies or surveys if necessary to determine special benefit. LCC, Inc. makes no guarantee or warranty that the method of assessment will withstand a legal challenge with respect to the requirements of Section 4 of Article XIII D of the State Constitution.

## **II PROJECT SCHEDULE**

Assessment proceedings should be completed in early July of 2014 in order to allow sufficient time to meet the County Auditor's August 10, 2014 deadline for posting assessments to the Tax Roll. A schedule for this year's proceedings is enclosed.

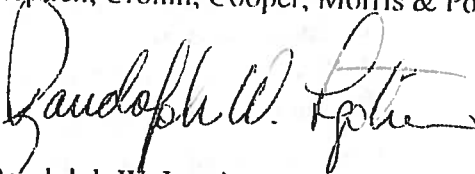
### III TERM, FEE AND PAYMENT FOR SERVICES

This proposal is for services performed for the 2014 calendar year (January through December 2014).

We propose to provide the services described in the above paragraphs at our per diem rates enclosed for a fee not to exceed \$19,200.

Please feel free to contact the undersigned with regard to this proposal or any other matter pertaining to the Assessment District.

Very truly yours,  
Leptien, Cronin, Cooper, Morris & Poore, Inc.



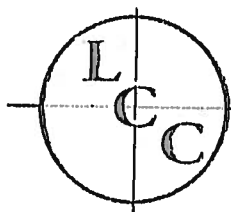
Randolph W. Leptien, Principal

RWL: slh  
Enclosures: LCC, Inc. Cost Estimate  
Schedule of Proceedings  
LCC, Inc. Rate Schedule

City of San Pablo Street Lighting and  
Landscape Assessment District No. 1982-1  
2014-15 Fiscal Year

**Schedule of Proceedings**

ITEM	Proposed Schedule Complete by:	
Proposal for Engineering Services	February 7, 2014	✓
Meeting with City Staff	February 28, 2014	
City Council adopts Resolution Directing the Filing of the Annual Report	March 3, 2014	
Assist staff with data types and reports needed to track District activity costs	March 2014	
Develop 2014-15 FY Cost Estimates	April 2014	
Progress meeting with Staff & Engineer	May 3, 2014	
Engineer submits Draft Report to staff	May 15, 2014	
Engineer files Report with City Clerk	May 23, 2014	
City Council adopts Resolution of Intention to Levy and Collect assessments for the 2014-15 FY	June 2, 2014	
Publish Notice of Public Hearing	June 26, 2014	
City Council conducts Public Hearing and adopts Resolution Confirming Diagram and Assessment for the 2014-15 FY	July 7, 2014	
Engineer makes technical revisions reflecting changes in the Tax Roll	July 2014	
Engineer submits Add-tape to County Auditor	August 10, 2014	



LEPTIEN, CRONIN, COOPER, MORRIS & POORE, Inc.

Civil Engineering – Land Surveying

## RATE SCHEDULE

### OFFICE & DESIGN PERSONNEL

### HOURLY RATE

Technical Assistant 1 .....	\$49.00
Technical Assistant 2 .....	\$65.00
CAD 1 .....	\$83.00
CAD 2 .....	\$113.00
Assistant Civil Engineer .....	\$125.00
Special Districts Manager .....	\$125.00
Civil Engineer 1/Project Manager .....	\$140.00
Civil Engineer 2 .....	\$160.00
Land Surveyor (Office) .....	\$160.00
Principal Engineer .....	\$184.00

### FIELD & SURVEY PERSONNEL

Field Assistant .....	\$65.00
Survey Tech. 1 .....	\$79.00
Survey Tech. 2 .....	\$108.00
Field Representative (Construction) .....	\$125.00
Resident Engineer .....	\$140.00
Chief of Party .....	\$152.00
Principal Surveyor .....	\$184.00

### REIMBURSABLE EXPENSES

Charges for reproductions, blueprinting, long distance travel costs, outside computer services, rental of special equipment, County base maps, official records, record maps, delivery, express mail and insurance certificates (where client requires to be listed as an additional insured) will be charged at 1.15 times cost. Sub-consultant's services will be charged at 1.10 times cost.

### CONDITIONS

Invoices are mailed at monthly intervals and upon completion of work segments when appropriate.

Charges for personnel engaged in professional and/or technical work are made for the actual hours directly chargeable to the project. Rates for individuals may vary depending on the service performed. Minimum rate for a two person survey crew is \$232.00 per hour (4 hour minimum).

Hourly rates for office personnel generally remain fixed. However, rates for Field personnel may change when "Prevailing Wage" rates are required by law. Updated rates are available upon request. In the case of required overtime, the rates charged for office personnel and field personnel will be 1.5 times the hourly rates shown. Work required on Sundays and Holidays for field surveyors will be charged at 2 times the hourly rates shown. Litigation Services rate is \$361.00/hour.

**EFFECTIVE DATES: 07/01/2013 – 06/30/2014**

# REQUEST FOR COUNCIL ACTION



CITY OF SAN PABLO  
*City of New Directions*

PREPARED BY: Cmdr. Palmieri

DATE OF MEETING: March 3, 2014

DATE: March 3, 2014

PHONE: (510) 215-3275

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING (1) THE TEMPORARY CLOSURE OF STREETS FOR THE 2014 CINCO de MAYO PARADE AND CELEBRATION (2) WAIVER OF TRAFFIC CONTROL FEES (3) PROVISION OF POLICE, RECREATION AND PUBLIC WORKS STAFF TO SUPPORT EVENT. (4) PROVIDE A \$7,000 EVENT SPONSORSHIP, AND (5) DESIGNATE THE CINCO DE MAYO COMMITTEE AS FISCAL AGENT

APPROVED:

  
DEPARTMENT HEAD

  
CITY MANAGER

  
CITY ATTORNEY

## RECOMMENDATION

Adopt the attached resolution.

## BACKGROUND

### **FY 2012-13 Council Priority Workplan**

The Cinco De Mayo Annual Event is an adopted policy item contained in the FY 2012-13 Council Priority Workplan, effective July 1, 2013.

Community members from the City of San Pablo and City of Richmond formed a 2014 Cinco de Mayo Parade Committee and have been coordinating this year's Cinco de Mayo parade to be held on Saturday, May 3, 2014. The parade is scheduled to begin at 10:00 a.m. at the corner of 24<sup>th</sup> Street and Barrett Avenue in the City of Richmond. From there, it will travel westbound on Barrett Avenue to northbound on 23<sup>rd</sup> Street, then turn east on to Market Avenue. After a total distance of approximately two miles, the parade will terminate at St. Paul's School with parking available at the San Pablo City municipal parking lot. It is expected to be completed in three hours. This annual multi-cultural event will include musicians, dance groups, youth sports teams, classic cars, local dignitaries and is specifically designed as a complimentary event to the Saint Paul's celebration.

Due to the expected increase in the size of the parade, we expect that all lanes of traffic will be utilized. Road closures will only be for the length of time it takes for the parade to pass. A small portion of Dover Avenue adjacent to Saint Paul's Church will be closed during the celebration. Insurance, aid stations, event monitors and bathroom facilities will be provided

### Departmental Coordination

☐ Comm. Services \_\_\_\_\_

☐ Police \_\_\_\_\_

☒ Finance 

☐ Public Works \_\_\_\_\_

by the Event Committee. The Cinco de Mayo Parade Event Committee requests a waiver of all related traffic control fees and waiver/use of the Senior Center Parking Lot. San Pablo Public Works will be responsible for barricading streets for this event.

**Annual Event Sponsorship:**

The budgeted funds for event sponsorship of the Annual Cinco de Mayo Event is \$14,000. However, based on the written request received from the Event Committee Co-Chairs dated February 10, 2014, a total of \$7,000 is being requested for event sponsorship, and authorized for disbursement to the Event Committee for the 2014 event. None of the money requested will be used for religious purposes.

**Fiscal Agent for Event:**

As requested by the Event Committee, the City Manager/Executive Director will designate the City's Sister City Committee to be authorized as the event's Fiscal Agent.

**FISCAL IMPACT**

Staffing costs of \$26,250 will be absorbed in the existing Police, Recreation and Public Works budgets.

\$11,250 for the Police Department will come from Account No. 100-1810-41000

\$2,500 for the Recreation Division will come from Account No. 100-1440-41000

\$12,500 for Public Works will come from Account No. 100-3110-41000

\$7,000 to cover account sponsorship will come from Account No. 100-111-44050.

**Attachments:**

- A. Road Closure 23<sup>rd</sup> Street and Market Avenue (Parade Route).
- B. Road Closure Dodson Street to Church Lane
- C. Event Layout

## City of San Pablo

Exhibit- A

### Cinco de Mayo - Parade Route

Saturday, May 3, 2014

#### Directions:

- **Start:** N/B 23<sup>rd</sup> St. at Rheem Ave
- **Turn:** Right onto E/B Market Ave.
- **End:** Saint Pauls' School located at 1825 Church Lane

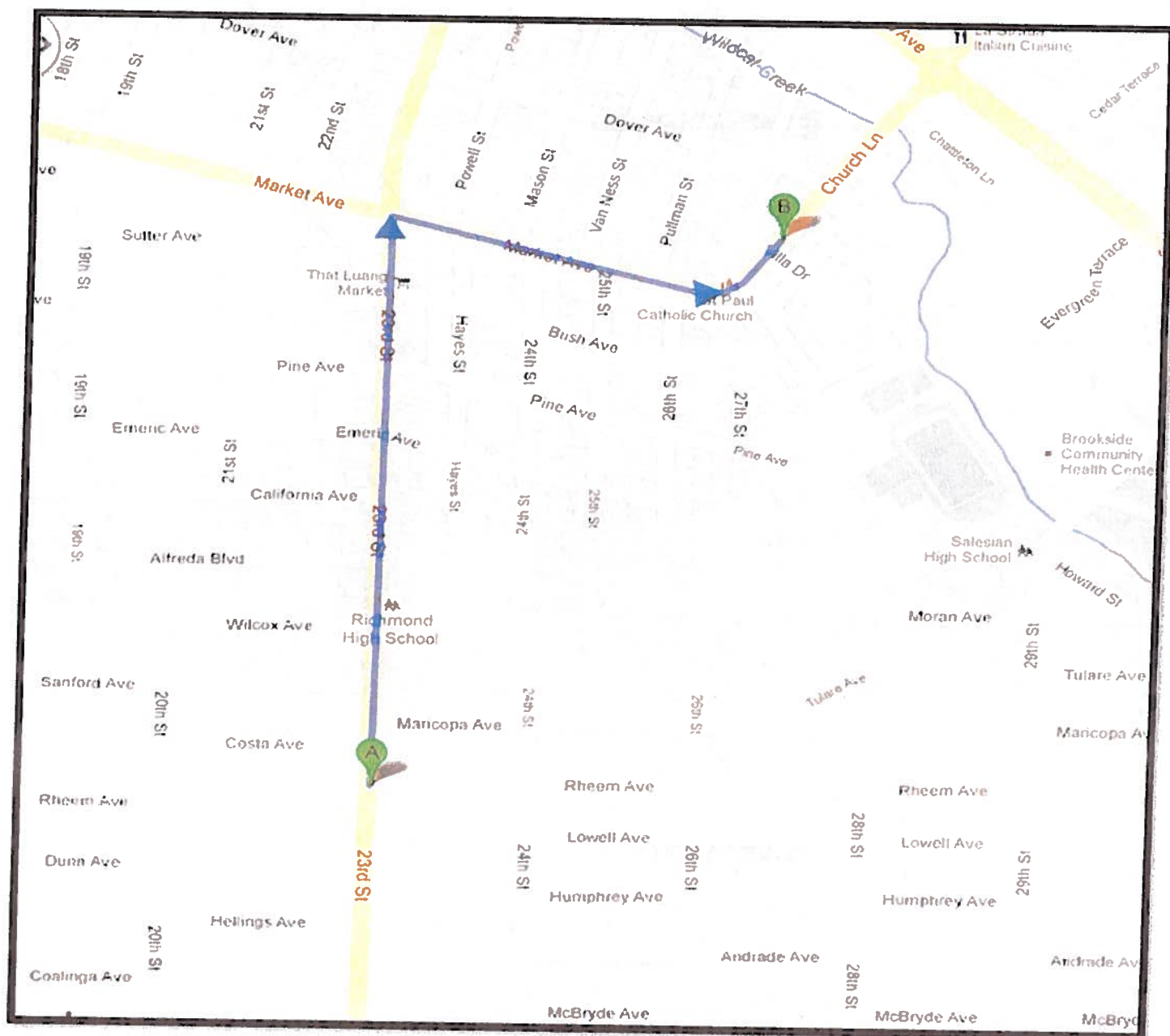
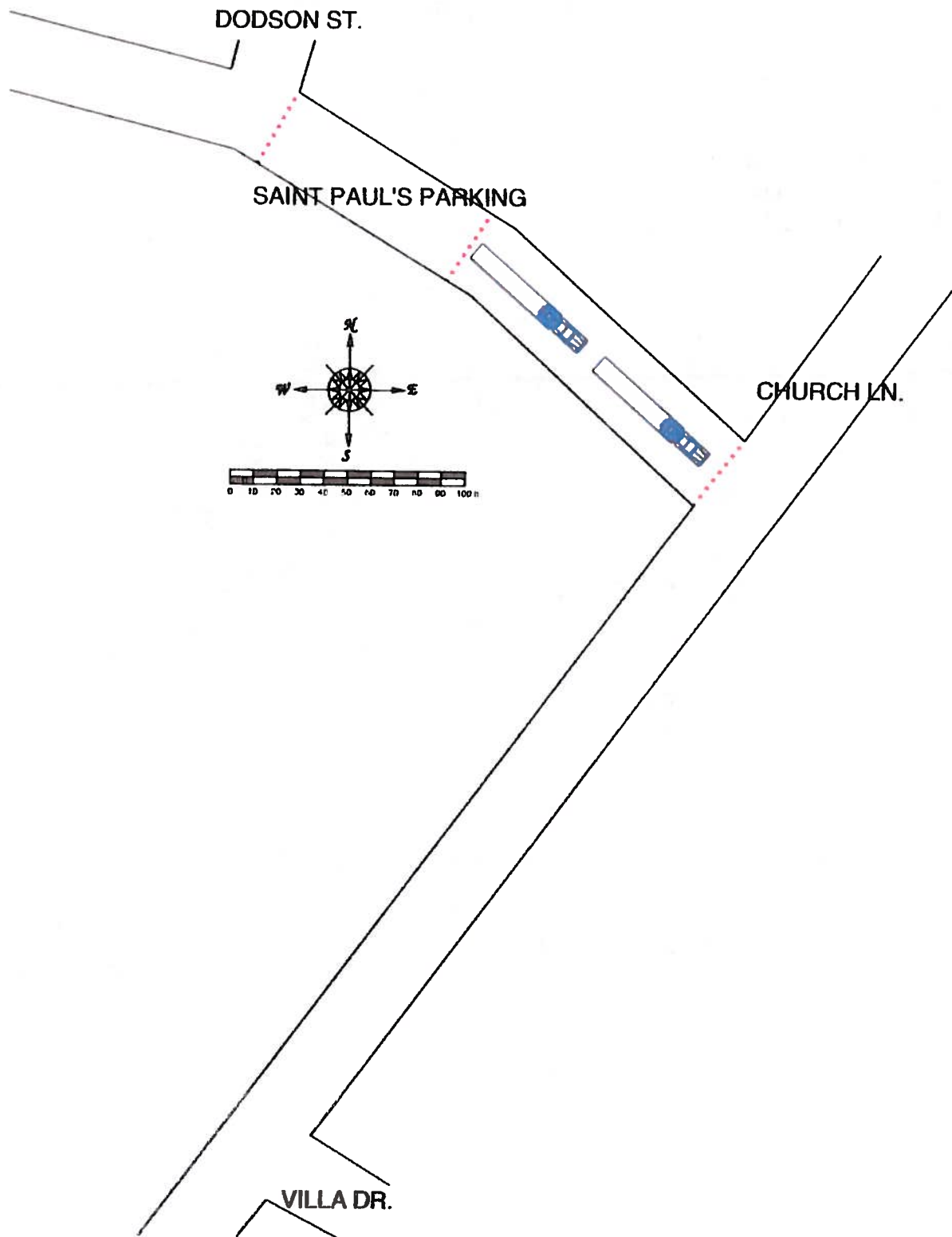




Exhibit B – Road Closure



## Exhibit C – Event Layout



- Food Booths - 
- Food Truck - 
- Drinks - 
- Info Booth - 
- Sound Station - 
- First Aid - 

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## **RESOLUTION 2014-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING (1) THE TEMPORARY CLOSURE OF STREETS FOR THE 2014 CINCO de MAYO PARADE AND CELEBRATION; (2) WAIVER OF TRAFFIC CONTROL FEES; (3) PROVISION OF POLICE, RECREATION AND PUBLIC WORKS STAFF TO SUPPORT THE EVENT AT NO COST TO THE ORGANIZERS; (4) PROVIDE A \$7,000 EVENT SPONSORSHIP; AND (5) DESIGNATE THE CINCO de MAYO COMMITTEE AS FISCAL AGENT.**

WHEREAS, community members of the City of San Pablo and the City of Richmond work together to form the Cinco de Mayo Parade Committee; and

WHEREAS, said Committee has coordinated the 2014 Cinco de Mayo Parade to be held on Saturday, May 3, 2013; and

WHEREAS, in order to smoothly accommodate the 2014 Cinco de Mayo Parade, the temporary closure of a portion of 23<sup>rd</sup> Street in San Pablo and Market Avenue is required; and

WHEREAS, to safely accommodate increased pedestrians walking to the St. Paul's Church celebration, a temporary closure of Dover Avenue adjacent to the church is required; and

WHEREAS, the Cinco de Mayo Parade Committee requests a waiver of all related traffic control fees and requests \$7,000 for event sponsorship, none of which will be used for religious purposes.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of San Pablo that the temporary closure of a portion of San Pablo's 23<sup>rd</sup> Street and Market Avenue as directed by the Chief of Police is hereby authorized.

BE IT FURTHER RESOLVED that the City authorizes (1) the temporary closure of streets for the 2014 Cinco de Mayo parade and celebration; (2) waiver of traffic control fees; (3) provision of police, recreation and public works staff at no cost; (4) providing \$7,000 event sponsorship; and (5) designation of the Cinco de Mayo Committee as Fiscal Agent.

\*\*\*\*\*

ADOPTED this 3<sup>rd</sup> day of March, 2014 by the following vote wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST

APPROVED:

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Ted J. Denney, City Clerk

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Paul V. Morris, Mayor

# REQUEST FOR CITY COUNCIL ACTION



CITY OF SAN PABLO  
City of New Directions

PREPARED BY: Tina Gallegos  
Assistant to the City Manager

DATE OF MEETING: March 3, 2014

DATE: February 24, 2014

PHONE: (510) 215-3002

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO  
AUTHORIZING TO PROCEED WITH A COMMUNITY SURVEY PROCESS TO  
RE-NAME THE FORMER CIRCLE S PROJECT SITE FOR FY 2013-14

APPROVED: Tina Gallegos MPA [Signature]  
DEPARTMENT HEAD CITY MANAGER CITY ATTORNEY

## RECOMMENDATION

Adopt resolution.

## COMPLIANCE STATEMENTS

### **FY 2013-14 Council Priority Workplan Compliance Statement**

Development Projects (Economic Development) – Circle S Project Development is an adopted policy item under the FY 2013-15 Council Priority Workplan, effective July 1, 2013.

### **CEQA Compliance Statement**

This is not a project as defined by CEQA.

## BACKGROUND

On August 1, 2011, the City Council ratified guidelines for a citywide contest that would involve employees, boards and committees, and the general public in finding a name for the Circle-S site which reflected the community's vision for the future development of the site. The Circle-S Renaming Contest Guidelines consisted of the following five (5) steps:

Step 1: Council review and approval of guidelines.

Step 2: The contest was opened to City of San Pablo employees, Boards and Commissions for submittal of proposed names. Submissions were due within one week of the contest announcement. A total of 98 entries were received.

Step 3: The submitted names were reviewed by the Council Ad-Hoc Subcommittee on Circle-S. The Subcommittee voted for their top three (3) choices – "Chattleton Square," "Chattleton Promenade," and "The Avenue."

### **Departmental Coordination**

☐ Comm. Services \_\_\_\_\_  
☐ Police \_\_\_\_\_

☒ Finance [Signature]  
☐ Public Works \_\_\_\_\_

Step 4: The selected three (3) names were released for a citywide vote via Survey Monkey; staff also had surveys available at public events.

Step 5: In the final step, staff presented to the City Council the results of the contest: A total of 473 people voted during the contest and the majority (60.9%) selected "The Avenue" as their preferred name for the former mobile home park site. At the regular City Council meeting of September 6, 2011 the Council ratified the winning name.

### **Legal Trademark Issues**

Following ratification of the new project name, "The Avenue," the City was contacted by a development group who had copyrighted this name for their own mixed-use development. The City Council decided to forego "The Avenue" given the legal complexities involved in further pursuing this name by the City.

### **Current Circle S Project Site Economic Development**

Since 2011, when this last survey was conducted, there have been several changes in the development strategy for this site. At this point, the West County Health Center is fully operational on the site. In addition, a Tentative Map has been approved, which created five (5) developable lots, and two (2) creek-side parcels. Development on the five lots is anticipated to include the following proposed development scenarios or uses which are in a pre-development phase to develop an overall "medical services" campus, as follows:

### **Current Development Scenarios or Uses:**

- **Lot 1 (Parcel A)** – Medical Office building to house additional Contra Costa County Health Services
- **Lot 2 (Parcel B)** – New Walgreens pharmacy site
- **Lot 3 (Parcel C)** – Senior housing development by Domus Development Inc.
- **Lot 4 (Parcel D)** – Multi-level parking garage and additional senior housing by Domus Development Inc.
- **Lot 5 (Parcels F& G)** – Primary: Possible site for future relocation of a new Doctor's Medical Center dependent on bond/parcel tax approval by WCCHCD voters; Secondary – Alternative Hospital Use (TBD).

### **Re-Authorization of New Naming Contest for FY 2013-14**

Given the legal issues, in addition to the more likely development scenario presented above, staff is recommending conducting another naming contest during FY 2013-14. The advancements made as far as securing development of certain uses on the site may convey new ideas for names, which are befitting of the anticipated uses on the site, and the anticipated restoration of the adjoining creek and active recreational trail.

**NEXT STEPS**

Following Council approval, City staff will initiate another community wide survey (90 days) using the previously approved guidelines used in the previous naming contest during 2011. The results of the survey will then be presented to the Economic Development Ad-Hoc Subcommittee for review and selection of top name choices. Staff will then conduct the relevant research to ensure that there are no trademark issues associated with any of the choices. The names will then be released for voting via Survey Monkey. Staff will also take surveys to special events in order to ensure voter participation.

In the final step of the process, the results of the survey will be presented to Council for final name selection and approval. (See Attachment A)

**FISCAL IMPACT**

Funding for this survey will be absorbed within existing resources – no additional resources needed during FY 2013-14.

**ATTACHMENTS**

Attachment A: Circle S Re-naming Contest Timeline for FY 2013-14 (Proposed)



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## **RESOLUTION 2014-**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING TO PROCEED WITH A COMMUNITY SURVEY PROCESS TO RE- NAME THE FORMER CIRCLE S PROJECT SITE FOR FY 2013-14**

WHEREAS, the former Circle S site is in need of a new name that reflects the development efforts to date to transform the site from what used to be a blighted mobile home park with other uses, such as a Salvation Army store and Davis lumber to a new mixed use development; and

WHEREAS, Development Projects (Economic Development) – Circle S Project Development is an adopted policy item under the FY 2013-15 Council Priority Workplan, effective July 1, 2013; and

WHEREAS, this is is not a project as defined by CEQA; and

WHEREAS, on August 1, 2011 the City Council ratified guidelines for a citywide contest that would involve employees, boards and committees, and the general public in finding a name for the Circle-S site which reflected the community's vision for the future development of the site; and

WHEREAS, following guideline approval, City Staff conducted said citywide survey and a new project name was selected, "The Avenue;" and

WHEREAS, the City was contacted by a development group who had copyrighted this name for their own mixed-use development, and the City Council under legal advisement decided to forego "The Avenue" given the legal complexities involved in further pursuing this name for the Circle S Project Site; and

WHEREAS, since 2011, when this last survey was conducted, there have been several changes in the development strategy for this site and a Tentative Map has been approved, which created five (5) developable lots, and two (2) creek-side parcels; and

WHEREAS, given the legal issues, in addition to the current development scenarios or proposed uses for the site, staff recommended conducting another naming contest for City Council authorization during FY 013-14; and

WHEREAS, following Council approval, staff will initiate another community wide survey (90 days) using the previously approved guidelines from the first naming contest, and the results of the survey will then be presented to the Economic Development Ad-Hoc Subcommittee for review and selection of top name choices;

WHEREAS, City Staff will conduct the relevant research to ensure that there are no trademark issues associated with any of the choices, and then release the potential for

voting via Survey Monkey and other special events in order to ensure voter participation;  
and

WHEREAS, in the final step of the process, the results of the survey will be presented to Council for final name selection and approval; and

WHEREAS, funding for this survey will be absorbed within existing resources – no additional resources needed for allocation during FY 2013-14; and

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes staff to initiate a citywide renaming survey for the former Circle S site.

\* \* \* \* \*

Adopted this 3th day of March, 2014, by the following vote to wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

---

Ted J. Denney, City Clerk

---

Paul V. Morris, Mayor

# CIRCLE S RE-NAMING CONTEST GUIDELINES

(DRAFT – March 3, 2014)

Steps	Action	Description	Participants	Completion
Step 1	City Council Review of Contest Guidelines and authorization to initiate community survey process	City Council approval of contest procedures to initiate community survey.	City Council	March 3, 2014
Step 2	Initial Contest Announcement	Announcement of contest to City of San Pablo Employees, Boards and Commissions. Submissions shall be submitted within the directed to <a href="mailto:tinag@sanpabloca.gov">tinag@sanpabloca.gov</a>	City Employees, City Boards & Commissions	March 4, 2014- June 4, 2014
Step 3	Meeting with Economic Development Ad-Hoc Subcommittee	The submitted names will be reviewed by the Ad-Hoc Subcommittee. The Committee will vote on their top choices.	Economic Development Ad-Hoc Subcommittee	2 <sup>nd</sup> week of June, 2014
Step 4	Citywide vote via Survey Monkey	The top choices, as selected by the Ad-Hoc Subcommittee will be released for a citywide vote via Survey Monkey. Staff will also have surveys available at public events.	General Public	Survey from 2 <sup>nd</sup> week of June – 2 <sup>nd</sup> week of July
Step 5	Selection of winning name by the City Council	Staff will present to the City Council the results of the citywide vote. The Council shall then select the winning name.	City Council	2 <sup>nd</sup> City Council meeting in July

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# REQUEST FOR CITY COUNCIL ACTION



CITY of SAN PABLO  
City of New Directions

PREPARED BY: Tina Gallegos *JA*  
Assistant to the City Manager

DATE OF MEETING: March 3, 2014

DATE: February 24, 2014

PHONE: (510) 215-3002

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING THE CITY MANAGER TO AMEND THE FY 2013-14 ORGANIZATIONAL STRUCTURE OF THE CITY MANAGERS' DEPARTMENT CONSISTENT WITH THE ADOPTED 2014 CLASSIFICATION & COMPENSATION PLAN

APPROVED: *M. D. [Signature]*

DEPARTMENT HEAD

CITY MANAGER

CITY ATTORNEY

## RECOMMENDATION

Adopt resolution.

## COMPLIANCE STATEMENTS

### **FY 2013-14 Council Priority Workplan Compliance Statement**

Customer Service/Internal Services – Reorganizational Analysis is an adopted policy item under the FY 2013-15 Council Priority Workplan, effective July 1, 2013.

### **CEQA Compliance Statement**

This is not a project as defined by CEQA.

## BACKGROUND

Pursuant to administrative authority under section 5.02 *Amendment and Maintenance of Plan, Of the City's Personnel Rules, adopted on February 18, 2014:*

*"It shall be the responsibility of the Personnel Officer [City Manager] to recommend to the City Council, for their adoption by resolution, the creation of new classes or the dividing, combining, revising or abolishing of existing classes to ensure the efficient and equitable operations of Personnel Division. The Personnel Officer shall have the right to initiate and conduct studies of any position in the competitive service to determine if such position is properly classified."*

### **Departmental Coordination**

☐ Dev. Services \_\_\_\_\_

☐ Police \_\_\_\_\_

☒ Finance *[Signature]*

☐ Public Works \_\_\_\_\_

*All changes or amendments to the Classification Plan involving the addition or deletion of class specifications from the Plan must first be adopted by resolution by the City Council in a public meeting."*

### **City Manager's Office – Economic Development Programs**

On June 30, 2014, Assistant City Manager Kelsey Worthy will be resigning from the City. Additionally, Financial Advisor Bradley Ward will be ending his term as a PERS annuitant covering redevelopment (RDA) dissolution and other New Market Tax Credits financial responsibilities for the City on or around May 2014. These two (2) key positions in the City currently jointly coordinate the City's ongoing RDA dissolution and economic development programs in the City.

In order to maintain continuity and operational efficiency, and to meet current economic development priorities in the City Managers' Office (CMO), the City Manager is recommending hiring a new Assistant to the City Manager position (AC2M), a mid-level Division manager position to serve primarily as the City's Economic Development Manager function for the City assigned to the CMO. The A2CM will coordinate all economic development activities and implement an overall economic development strategy for the City. This new 1.00 FTE position will be responsible for: RDA dissolution activities, New Markets Tax Credits Program, capital project funding, and project management responsibilities (i.e. Circle S Project Site, BNSF Rumrill Soccer Field Project, et. al). Additionally, the new A2CM classification will serve as a City liaison to the San Pablo EDC, and oversee other economic development projects to enhance revenue programs in the City, as designated. This classification will also be designated to the Division Manager unrepresented employee group (See DRAFT Proposed FY 2014-15 Organizational Chart) and reports directly through the Assistant City Manager to the City Manager.

The City Manager is recommending this position be budgeted as a full-time (1.00 FTE) position. Staff will begin an open competitive recruitment immediately due to the specialized qualifications of this position. The job description for this classification reflects the current duties, responsibilities and qualifications required for this position (Exhibit A).

### **FISCAL IMPACT**

The total salary and benefit annual cost is approximately \$176,000. The proposed Salary Range is aligned to the existing Assistant to the City Manager Salary Range approved for FY 2013-14 as enumerated in the recently adopted FY 2013-14 Classification Plan approved on February 18, 2014. There is no fiscal impact for the remainder of FY 2013-14 since appointment will occur on or after July 1, 2014, and ongoing annual costs to be offset by forthcoming FTE vacancies to occur in FY 2014-15 in the CMO to be addressed under the Mid-Year Budget Process in June 2014.

### **ATTACHMENTS**

Exhibit A – Job description for Assistant to the City Manager – Economic Development

Exhibit B – Proposed (DRAFT) FY 2014-15 City of San Pablo Organizational Chart (effective 07/01/14)

## RESOLUTION 2014-

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AUTHORIZING THE CITY MANAGER TO AMEND THE FY 2013-14 ORGANIZATIONAL STRUCTURE OF THE CITY MANAGERS' DEPARTMENT CONSISTENT WITH THE ADOPTED 2014 CLASSIFICATION & COMPENSATION PLAN**

WHEREAS, Customer Service/Internal Services – Reorganizational Analysis is an adopted policy item under the FY 2013-15 Council Priority Workplan, effective July 1, 2013; and

WHEREAS, pursuant to administrative authority under section 5.02 *Amendment and Maintenance of Plan, Of the City's Personnel Rules, adopted on February 18, 2014:*

*"It shall be the responsibility of the Personnel Officer [City Manager] to recommend to the City Council, for their adoption by resolution, the creation of new classes or the dividing, combining, revising or abolishing of existing classes to ensure the efficient and equitable operations of Personnel Division. The Personnel Officer shall have the right to initiate and conduct studies of any position in the competitive service to determine if such position is properly classified.*

*All changes or amendments to the Classification Plan involving the addition or deletion of class specifications from the Plan must first be adopted by resolution by the City Council in a public meeting; and*

WHEREAS, on June 30, 2014, Assistant City Manager Kelsey Worthy will be resigning from the City. Additionally, Financial Advisor Bradley Ward will be ending his term as a PERS annuitant covering redevelopment (RDA) dissolution and other New Market Tax Credits financial responsibilities for the City on or around May 2014; and

WHEREAS, in order to maintain continuity and operational efficiency, and to meet current economic development priorities in the City Managers' Office (CMO), the City Manager is recommending hiring a new Assistant to the City Manager position (AC2M), a mid-level Division manager position to serve primarily as the City's Economic Development Manager function for the City assigned to the CMO; and

WHEREAS, the A2CM will coordinate all economic development activities and implement an overall economic development strategy for the City; and

WHEREAS, this new 1.00 FTE position will be responsible for: RDA dissolution activities, New Markets Tax Credits Program, capital project funding, and project management responsibilities (i.e. Circle S Project Site, BNSF Rumrill Soccer Field Project, et. al). Additionally, the new A2CM classification will serve as a City liaison to the San Pablo EDC, and oversee other economic development projects to enhance revenue programs in the City, as designated; and



WHEREAS, this classification will also be designated to the Division Manager unrepresented employee group (See DRAFT Proposed FY 2014-15 Organizational Chart) and reports directly through the Assistant City Manager to the City Manager; and

WHEREAS, Staff will begin an open competitive recruitment immediately due to the specialized qualifications of this position; and

WHEREAS, the total salary and benefit annual cost is approximately \$176,000. The proposed Salary Range is aligned to the existing Assistant to the City Manager Salary Range approved for FY 2013-14 as enumerated in the recently adopted FY 2013-14 Classification Plan approved on February 18, 2014; and

WHEREAS, there is no fiscal impact for the remainder of FY 2013-14 since appointment will occur on or after July 1, 2014, and ongoing annual costs to be offset by forthcoming FTE vacancies to occur in FY 2014-15 in the CMO to be addressed under the Mid-Year Budget Process in June 2014.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Pablo authorizes the City Manager to amend the FY 2013-14 organizational structure of the City Managers' Department consistent with the adopted 2014 classification & compensation plan.

\* \* \* \* \*

Adopted this 3<sup>rd</sup> day of March, 2014, by the following vote to wit:

AYES:	COUNCILMEMBERS:	None
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:

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Ted J. Denney, City Clerk

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Paul V. Morris, Mayor

## **ASSISTANT TO THE CITY MANAGER**

### **DEFINITION**

To assist the City Manager in a wide variety of administrative tasks; to conduct specific and comprehensive analyses of a wide variety of municipal policies, organizational procedures, finance and services; to assume responsibility for a significant functional area of assignment; perform economic development related activities; perform related duties as required.

### **SUPERVISION RECEIVED AND EXERCISED**

General supervision is provided by the City Manager of his/her designee.

Responsibilities include direct and indirect supervision of subordinate management, professional, and support staff.

**EXAMPLES OF DUTIES** - Duties may include, but are not limited to, the following:

#### **Essential**

Assist in program, policy, and budget development, implementation, monitoring and evaluation.

Manage various projects and studies; gather and evaluate information and prepare appropriate written reports.

Provide support services for various departments/divisions, including attending meeting and making formal presentations before various groups.

Participate in and/or may coordinate departmental and interdepartmental task forces and committees.

Research, collect, compile, and analyze a variety of complex and statistical data.

Track state and federal government legislation for compliance and evaluate proposed legislation for potential impact, and recommend appropriate action.

Prepare recommendations for budget requests, grants, new programs, modification of organizational structure, services and equipment.

Coordinate Redevelopment dissolution activities, secure capital funding sources and oversee other economic development projects. Administers and implements the City's economic plans, programs, policies and strategy.

Leads the implementation of the Economic Development Workplan.

Functions as a liaison to the San Pablo Economic Development Corporation, San Pablo Merchants

Association, and Chamber of Commerce and to other professional economic organizations.

Meets with potential investors and developers.

Coordinates and recommends project activities including real estate acquisition and disposition, relocation, demolition, building construction and rehabilitation, property management and project improvements.

Maintains a database of vacant or underutilized commercial, office and industrial land and tenant spaces.

Works with property owners and prospective tenants to match available properties with desired commercial business activities

Serve as departmental liaison between City Manager's department and other City departments, the public, and outside agencies and contractors.

Analyze, interpret and explain City policies and procedures.

Plan, assign, direct, and evaluate the work of project or on-going support staff.

Important

Perform related duties as assigned.

**QUALIFICATIONS**

Knowledge of:

Principles, methods, and trends of public and business administration, including organizational, economic development, fiscal management, and research methodology.

Federal, State and local laws, codes, and regulations pertaining to local government operations.

Basic supervisory principles and practices including, planning, assigning, monitoring, and evaluating the work of assigned staff.

Ability to:

Perform varied and responsible assignments involving the use of initiative and independent judgment under minimum supervision.

Provide supervision and coordinate the work of others.

Collect effectively and analyze complex information, to draw valid conclusions.

Understand, interpret and apply appropriate rules, regulations and procedures.

Summarize facts and recommendations accurately.

Prepare clear and concise written reports; make effective public presentations.

Understand and carry out oral and written instructions.

Establish and maintain cooperative relationships with those contacted in the course of work.

### **EXPERIENCE AND EDUCATION**

Any combination equivalent to experience and education that could likely provide the required knowledge and abilities would be qualifying. A typical way to obtain the knowledge and abilities would be:

#### **Experience:**

Four years of professional experience, at least three of which are in a public agency.

#### **Education:**

Possession of a Bachelor's Degree from an accredited four-year college or university, preferably with a degree in Public or Business Administration. Master's Degree in public Administration is desirable.

### **PHYSICAL REQUIREMENTS:**

The work requires a combination of the following physical requirements depending upon a given task, on a given day: between 3 to 8 hours of sitting and finger dexterity; up to 3 hours of standing, walking, bending, twisting turning, firm grasping, reaching forward or overhead, talking (face-to-face, verbal contact or public speaking) pinch grasping, hand-eye-foot coordination, far vision accuracy; up to 3 hours of carry, lifting or pushing/pulling less than 25 lbs.; 3 to 6 hours of near vision accuracy; up to 3 hours of conversations; up to 6 hours of telephone conversations.

### **MENTAL REQUIREMENTS:**

The work requires a combination of the following mental requirements depending upon a given task, on a given day: abstract variables; interpreting, comprehending and following instructions; detailed, uninvolved instructions; standard problems; simple to complex- reading, writing, and math skills; clerical, synthesizing, coordinating, analyzing, computing, copying, comparing, supervising, serving, setting-up, operating-controlling; performing from simple, repetitive, tasks to varied, complex assignments; maintain work pace, influencing other people, relating to other people, evaluating; generalizing; and responsibility for direction.

### **WORK ENVIRONMENT:**

Work is performed indoors and outdoors; using a computer and other office equipment; working alone; working around or with others.

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# DRAFT CITY OF SAN PABLO ORGANIZATIONAL CHART, FY 2014-15 (JULY 1, 2014)

TOTAL FTE: 154.45

## SAN PABLO CITY COUNCIL

### CITY ATTORNEY 1.0

0.8 Secretary to the City Attorney

1.8 FTE

### CITY MANAGER 1.0

7.5 FTE

#### ADMINISTRATIVE/CONFIDENTIAL

1.0 Executive Assistant to CM  
1.0 Deputy City Clerk  
0.8 Administrative Clerk  
0.5 Administrative Intern (P/T)  
0.2 Secretary to the City Attorney 3.5FTE

#### ASSISTANT TO THE CITY MANAGER 1.0

HR FUNCTIONS/  
MANAGEMENT SUPPORT

1.0 FTE

#### ASSISTANT CITY MANAGER 1.0 (PERSONNEL ADMINISTRATOR)

1.0 FTE

#### ASSISTANT TO THE CITY MANAGER 1.0

ECONOMIC DEVELOPMENT/  
SUCCESSOR AGENCY

1.0 FTE

32.45 FTE

### COMM. SERVS. MANAGER 1.0

COMMUNITY SERVS.

**RECREATION SERVICES**  
1.0 Rec. Supervisor  
1.8 Rec. Coordinator  
1.0 Admin. Clerk I  
0.5 Prog. Assistnt. (P/T)  
3.75 Buildg. Atten. (P/T)  
14.0 Rec. Staff (P/T)  
0.5 Art Curator (P/T)

**SENIOR SERVICES**  
.40 Rec. Supervisor  
1.0 Sr. Ctr. Servs Aide  
1.0 Buildg. Atten. (P/T)  
1.0 Admin Intern(P/T)

**YOUTH SERVICES**  
1.0 Comm. Servs. Coord.  
1.0 Program Coordinator  
0.5 Prog. Assistnt. (P/T)

**PARATRANSIT**  
.40 Rec. Supervisor  
1.0 Sr. Ctr. Services Aide  
2.6 Paratransit Drivr  
(F/T, P/T)

6.6 FTE

### DEV. SERVS. MANAGER 1.0

DEVELOPMENT SERVS.

**BUILDING SERVICES**  
(Contract Services)  
1.0 Building Inspector

**PLANNING SERVICES**  
0.8 Planning Aide  
0.8 Assistant Planner  
0.5 Admin. Intern(P/T)

**PERMIT SERVICES**  
1.0 Sr. Permit Tech.  
0.5 Admin. Secretary  
0.8 Admin. Clerk  
0.5 Admin. Intern(P/T)

6.0 FTE

### FINANCE MANAGER 1.0

FINANCIAL SERVS.

**BUDGET & FISCAL SERVICES**  
1.0 Finance Supervisor  
1.0 Accountant  
1.0 Fiscal Clerk II  
1.0 Fiscal Clerk I  
0.5 Financial Advisor  
0.5 Admin Intern(P/T)

**RISK MANAGEMENT**  
Municipal Pooling  
Authority (MPA)

3.5 FTE

### INFO. TECH. MANAGER 1.0

INFO. TECH. SERVS.

**INFO. TECHNOLOGY SERVICES**  
1.0 Info. Tech.  
Administrator  
1.0 Info. Tech.  
Technician  
0.5 Info. Tech.  
Intern (P/T)

3.5 FTE

### PUBLIC WORKS MANAGER 1.0

ENGINEERING SERVC.

**ENGINEERING**  
1.0 Sr. Public Works  
Inspector  
1.0 Asst. Engineer  
0.5 Administrative  
Secretary

3.8 FTE

### PUBLIC WORKS MANAGER 1.0

ENV. PROGRAMS

**ENVIRONMENTAL PROGRAMS**  
1.0 Maint. worker III  
0.5 Maint. Worker I  
0.5 Env. Prog. Analyst  
0.8 Env. Prog. Analyst

12.5 FTE

### PUBLIC WORKS MANAGER 1.0

PARKS & MAINT.

**PW MAINTENANCE**  
2.0 Sr. Maint. Worker  
3.0 Maint. Worker III  
3.5 Maint. Worker I  
2.5 Maint. Aide (P/T)  
0.5 Admin Intern(P/T)

76.5 FTE

### POLICE CHIEF 1.0

POLICE DEPARTMENT

**PD MANAGEMENT**  
3.0 Police Commander

**SWORN STAFF**  
10.0 Sergeant  
40.0 Police Officer

**NON-SWORN STAFF**  
1.0 Administrative Analyst  
1.0 Executive Assistant  
6.0 Police Service  
Technicians  
3.0 Police Service  
Assistants  
7.0 Police Admin. Clerk II  
1.0 Maintenance Worker II  
0.5 Background  
Investigator  
0.5 Comm. Liaison Officer  
1.5 School Crossing Guard

**CODE ENFORCEMENT**  
1.0 Building Inspector

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# REQUEST FOR CITY COUNCIL ACTION



CITY of SAN PABLO

*City of New Directions*

PREPARED BY: Matt Rodriguez, City Manager      DATE OF MEETING: March 3, 2014

DATE: February 24, 2014

PHONE: (510) 215-3016

SUBJECT: CITY COUNCIL AUTHORIZATION AND RELEASE OF FIRST QUARTER EXTERNAL COMMUNICATIONS REPORT (JULY 1, 2013 – SEPTEMBER 30, 2013) FOR FY 2013-14

APPROVED:

  
DEPARTMENT HEAD

CITY MANAGER

CITY ATTORNEY

## RECOMMENDATION

The City Manager recommends approval by Minute Order and release of the First Quarter External Communications Report for the period July 1, 2013 through September 30, 2013 for FY 2013-14

## BACKGROUND

### **Council Priority Workplan**

*External/Internal Communications* is an adopted policy item/program under the FY 2013-15 Council Priority Workplan, effective July 1, 2013.

Upon City Council approval, the City Manager will immediately release the *First Quarter External Communications Report* which summarizes all City Council / Local Successor Agency actions and activities in a "summary report format" by policy category to be used as an information tool for providing more detailed information to external groups, media sources, and the community on City activities, grants received, projects and programs, etc. that were accomplished during the period July 1, 2013 – September 30, 2013. There was a considerable delay in the operational development of the First Quarter External Communications Report due to current operational workloads during FY 2012-13, and continuing through FY 2013-14.

The City Manager will continue to provide Quarterly External Communications Reports on a timely basis. All reports once approved by the City Council are immediately posted to the City's website for public viewing and download.

## FISCAL IMPACT

None associated with this report.

### Departmental Coordination

☐ Comm. Services \_\_\_\_\_

☐ Police \_\_\_\_\_

☒ Finance 

☐ Public Works \_\_\_\_\_





CITY of SAN PABLO  
City of New Directions

**CITY OF SAN PABLO**  
**FIRST-QUARTER EXTERNAL COMMUNICATIONS REPORT FOR**  
**FY 2013-14**

**Summary of City Council and Local Successor Agency**  
**Actions and Activities**

**Reporting Period: July 1, 2013 – September 30, 2013**

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**REPORTING MONTH: JULY 2013**

**COMMUNITY RELATIONS**

- The City of San Pablo City Council by Resolution authorizing the City Manager to execute a contract in the amount of \$48,000 for the City's Community Outreach Strategy Program for FY 2013-14 with Strategy Research Institute, Inc. *(Source: CC Agenda Item dated July 1, 2013)*
- The City of San Pablo City Council by Resolution authorized the final adoption of FY2013-15 City Council Priority Workplan Update – effective July 1, 2013. *(Source: CC Agenda Item dated July 1, 2013)*
- The City of San Pablo City Council by Minute Order authorized ratification of Letter of Support for Assembly Bill 4 (Ammiano) "Trust Act" introduced legislation *(Source: CC Agenda Item dated July 15, 2013)*
- The City of San Pablo City Council by Minute Order authorized a waiver of facility fees in the amount of \$1,050 for Maple Hall use for Courageous Women Association for free shopping and pampering day for women and families of domestic violence, homelessness and rehabilitation event scheduled on Saturday, October 26, 2013 *(Source: CC Agenda Item dated July 15, 2013)*

## COMMUNITY SERVICES

### Recreation Services

- The City of San Pablo City Council by Resolution authorized approving revisions to the City's Public Facility and Field Rental Policies and Procedures (*Source: CC Agenda Item dated July 1, 2013*)

### Youth Services

- The City of San Pablo City Council received a presentation from the San Pablo Youth Commission Update (*Source: CC Agenda Item dated July 15, 2013*)

## ECONOMIC DEVELOPMENT

- The City of San Pablo City Council by Resolution authorized an expenditure of \$19,600 from the Budget authorizing the City Manager to execute a professional services agreement in the amount of \$42,000 with Grisham and Associates, Inc. for FY 2013-14 period, effective July 1, 2013 (*Source: CC Agenda Item dated July 15, 2013*)
- The City of San Pablo City Council by Resolution authorized the City Manager to execute a professional services agreement in the amount of \$60,000 for JMA Architecture for architecture design services for FY 2013-14 period, effective July 1, 2013 (*Source: CC Agenda Item dated July 15, 2013*)

## HUMAN RESOURCES

- The City of San Pablo City Council by Resolution authorized the City Manager or his designee to establish Salary Range Schedules effective July 1, 2013 in accordance with various Memoranda of Understanding, Terms of Employment and Schedule of Benefits from July 1, 2011 to June 30, 2014, for the various employee groups: Association of Intermediate Employees, Confidential Employees, Division Managers, Executive Management Employees, Public Employees Union Local One, San Pablo Police Employees' Association, City Manager and City Attorney (*Source: CC Agenda Item dated July 1, 2013*)

## LEGAL SERVICES

- The City of San Pablo waived first reading and introduced San Pablo City Council an Ordinance on the Transportation Systems Management Program with new purposes, goals and objectives; and Ordinance of the City Council of the City of San Pablo repealing San Pablo Municipal Code Chapter 10.36, Transportation Demand Management Program. (*Source: CC Agenda Item dated July 1, 2013*)

- The City of San Pablo City Council adopted an Ordinance of the City Council of the City of San Pablo repealing San Pablo Municipal Code Chapter 10.36, Transportation Demand Management Program (*Source: CC Agenda Item dated July 15, 2013*)

## LEGISLATIVE

- The City of San Pablo City Council authorized by Minute Order to approve ratification of letter of support for SB 150 (Lara) legislation – Tuition Equity Act for nonresident local high school students to concurrently enroll at California Community Colleges (*Source: CC Agenda Item dated July 1, 2013*)
- The City of San Pablo City Council adopted by Resolution a letter of support for Assembly Bill 48 (Skinner) – Ammunition Sales Legislation (*Source: CC Agenda Item dated July 15, 2013*)

## LOCAL SUCCESSOR AGENCY

- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency of the City of San Pablo, pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, electing that the City shall serve as an Interim Housing Successor to the former Redevelopment Agency for a limited period of time and designating the housing assets to be retained by the City as the Interim Housing Successor (*Source: CC/LSA Agenda Item dated July 1, 2013*)
- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency of the City of San Pablo, pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, requesting the San Pablo Oversight Board to declare certain real property of the Circle S Project Site (Block E) a housing asset, and approved and directed the transfer of said property (Block E) to the City of San Pablo as Housing Successor for a senior housing project (*Source: CC/LSA Agenda Item dated July 10, 2013*)
- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency of the City of San Pablo, pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, requested that the San Pablo Oversight Board approve a request for extension of Irrevocable Letter of Credit No. S305458M and authorizing certain actions relating thereto (*Source: CC/LSA Agenda Item dated July 15, 2013*)
- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency of the City of San Pablo, pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, approving the Long-Range Property Management Plan for Block E of the Circle S Project Site (*Source: CC/LSA Agenda Item dated July 29, 2013*)

## **PUBLIC WORKS**

- The City of San Pablo City Council by Resolution authorized the City Manager to execute Amendment #3 to the Voluntary Cleanup Agreement with the State of California for the former BNSF property on Rumrill Boulevard (PW 531). *(Source: CC Agenda Item dated July 1, 2013)*
- The City of San Pablo City Council by Resolution authorized Amendment #1 to the agreement with Harris & Associates for professional services for the 2013 Annual Pavement Maintenance Project (PW 528). *(Source: CC Agenda Item dated July 1, 2013)*
- The City of San Pablo City Council by Resolution authorized the City Manager to execute a Cooperative Agreement with Contra Costa County, State of California, and Contra Costa Transportation Authority for the exercise of the power of eminent domain for the Interstate 80/San Pablo Dam Road Freeway Interchange Project (PW 483). *(Source: CC Agenda Item dated July 1, 2013)*
- The City of San Pablo City Council scheduled a public hearing and adopted by Resolution confirming the diagram and assessments within San Pablo Street Lighting and Landscape Assessment District No. 1982-1 for Fiscal Year 2013/14 *(Source: CC Agenda Item dated July 1, 2013)*
- The City of San Pablo City Council by Resolution authorized a consulting services agreement with Wood Biological Consulting, Inc. for mitigation monitoring of the Rumrill Bridge Replacement Project (PW 442) *(Source: CC Agenda Item dated July 15, 2013)*

**REPORTING MONTH:                    AUGUST 2013**

## **CHILDHOOD OBESITY PREVENTION**

- The City of San Pablo City Council by Resolution authorized a one-time budget allocation of \$6,000 from FY 2013-14 Budget Stabilization Funds to fund city-wide employee teambuilding projects to improve communication, employee camaraderie and teamwork for city departments (External and Internal Services) for FY 2013-14 centered around "Healthy Eating Active Living Policies." *(Source: CC Agenda Item dated August 5, 2013)*

## **COMMUNITY RELATIONS**

- The City of San Pablo City Council received a presentation from Adopt-A-Family Laptop Presentation *(Source: CC Agenda Item dated August 5, 2013)*

- The City of San Pablo City Council by Resolution authorized a \$2,500 event sponsorship from FY 2013-14 Budget Stabilization Funds for the Contra Costa College Foundation 14<sup>th</sup> Annual 2013 Swinging for Scholarships Annual Golf Tournament & Awards Banquet *(Source: CC Agenda Item dated August 5, 2013)*
- The City of San Pablo City Council by Resolution authorized the City Manager to execute a professional services agreement in the amount of \$45,000 for social media professional services with Ford & Bonilla *(Source: CC Agenda Item dated August 5, 2013)*
- The City of San Pablo City Council by Resolution authorized the use of Maple Hall for the Contra Costa County Library Town Hall Meeting and waiver of facility rental fees *(Source: CC Agenda Items dated August 5, 2013)*

## **COMMUNITY SERVICES**

### **Full Service Community Schools**

- The City of San Pablo City Council by Resolution authorized authorizing the City Manager to enter into an agreement with West Contra Costa Unified School District and Walter T. Helms Middle School for the ongoing implementation of the San Pablo Full Services Community Schools initiative. *(Source: CC Agenda Item dated August 5, 2013)*

## **FISCAL MANAGEMENT**

- The City of San Pablo City Council by Resolution amended the City of San Pablo's Master Fee Schedule for Community Services-Recreation Programs, Exhibit B to Resolution 2013-059 *(Source: CC Agenda Item dated August 5, 2013)*

## **HUMAN RESOURCES**

- The City of San Pablo City Council by Resolution authorized the City Manager or his designee to correct the established salary range schedule which became effective July 1, 2013 in accordance with the schedule of benefits for Executive Management Employees *(Source: CC Agenda Item dated August 5, 2013)*
- The City of San Pablo City Council by Resolution authorized a one-time budget allocation of \$15,000 from FY 2013-14 Budget Stabilization Funds to fund professional services with RJA Management Services, Inc. for City Manager Performance Evaluation Instrument Review Process *(Source: CC Agenda Item dated August 5, 2013)*

## **INTERGOVERNMENTAL RELATIONS**

- The City of San Pablo City Council by Resolution authorized re-designation of voting delegates for the League of California Cities Annual Conference (September 18-20, 2013) (*Source: CC Agenda Item dated August 5, 2013*)

## **LEGAL SERVICES**

- The City of San Pablo City Council by Resolution authorized the City Manager to execute a professional legal services agreement with Julian Gross for preparation of and negotiation for Local Hire Ordinance and Project Labor Agreement and Ordinance (*Source: CC Agenda Item dated August 5, 2013*)

## **LOCAL SUCCESSOR AGENCY**

- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency authorized the Submittal of an application to the California State Department of Housing and Community Development for funding under the Infill Infrastructure Grant Program; the execution of a standard agreement if selected for such funding and any amendments thereto; and any related documents necessary to participate in the Infill Infrastructure Grant Program (*Source: CC/LSA Agenda Item dated August 12, 2013*)
- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency hereby consents to, adopts and ratifies the following resolutions: Transit Oriented Development Housing Program (*Source: CC/LSA Agenda Item dated August 12, 2013*)
- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency approving a design review application for the construction of two, four story buildings that include a senior housing facility and a parking garage. The applicant is Domus Development. The property is located within the C-1 (Light Commercial) and R-3 (Multi-Family Residential) Districts/Mixed use center south of the San Pablo Avenue Specific Plan. The site is located on the San Pablo Avenue east of Church Street on the former Circle-S Site (APN 417-130-036, 417-170-006 and 417-140-016). Pursuant to the California Environmental Quality Act (CEQA), the proposed project conforms to the Mitigated Negative Declaration that was prepared to assess impacts from the Mixed Use Center South Regulating Plan for the former Circle-S site and the surrounding area and adopted by the City Council on October 17, 2011 (SCH No. 2011092047) (*Source: CC/LSA Agenda Item dated August 12, 2013*)

- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency Resolution of the City Council of the City of San Pablo approving and authorizing execution of a Disposition and Development Agreement with Domus Development for development of an affordable senior housing project *(Source: CC/LSA Agenda Item dated August 12, 2013)*

## **PUBLIC SAFETY**

- The City of San Pablo City Council authorized a temporary street/block closures at different locations throughout the City of San Pablo to support for the National Association of Town Watch's "National Night Out" Campaign on August 6, 2013 *(Source: CC Agenda Item dated August 5, 2013)*
- The City of San Pablo City Council held a Public Hearing and adopted a Resolution of the City Council of the City of San Pablo authorizing the acceptance of a grant award from the California Office of Traffic Safety for the "Sobriety Checkpoint Program" and appropriation of funds anticipated to be received from the California Office of Traffic Safety *(Source: CC Agenda Item dated August 5, 2013)*
- The City of San Pablo City Council held a Public Hearing and adopted a Resolution of the City Council of the City of San Pablo authorizing the acceptance of a grant award from the California Office of Traffic Safety for the "Selective Traffic Enforcement Program" and appropriation of funds anticipated to be received from the California Office of Traffic Safety *(Source: CC Agenda Item dated August 5, 2013)*
- The City of San Pablo City Council held a Public Hearing and adopted a Resolution of the City Council of the City of San Pablo to consider proposed use of funds anticipated to be received from the 2013 Justice Assistance Grant (JAG) Program and authorizing an agreement with Odin Systems for the development and installation of surveillance equipment and the appropriation of asset forfeiture funds *(Source: CC Agenda Item dated August 5, 2013)*

## **PUBLIC WORKS**

- The City of San Pablo City Council by Resolution authorized the City Manager to direct the Public Works Department to engage residents of the City of San Pablo in an Adopt-a-Spot Program *(Source: CC Agenda Item dated August 5, 2013)*
- The City of San Pablo City Council by Resolution 1) Authorized the filing of an application for funding assigned to MTC and committing any necessary matching funds and stating the assurance to complete the San Pablo Avenue Complete Streets Project (PW 612) and authorized

the City Manager to execute associated agreements, and 2) authorized the City Manager to negotiate and execute an agreement with the City of Richmond for its share of the project costs *(Source: CC Agenda Item dated August 5, 2013)*

- The City of San Pablo City Council by Resolution authorized the filing of an application for funding assigned to MTC and committing any necessary matching funds and stated the assurance to complete the San Pablo Pavement Preservation Project (PW 528), and authorized the City Manager to execute associated agreements *(Source: CC Agenda Item dated August 5, 2013)*
- The City of San Pablo City Council received and filed a report on proposed Ordinance to regulate single-use carryout bags and the associated outreach activities *(Source: CC Agenda Item dated August 5, 2013)*

**REPORTING PERIOD:                      SEPTEMBER 2013**

**COMMUNITY RELATIONS**

- The City of San Pablo City Council authorized a Proclamation request from the Chamber of Commerce for their Lifetime Achievement Awards Dinner on September 21, 2013 Honoring William “Junior” and Maxine Erwin, Nell Trundle, Walter and Phyllis Pedretti and Joseph Gomes. *(Source: CC Agenda Item dated September 3, 2013)*
- The City of San Pablo City Council by Resolution authorized a \$2,500 Event Sponsorship for the North Richmond Festival on Saturday, October 5, 2013 at Point Pinole Park *(Source: CC Agenda Item dated September 3, 2013)*
- The City of San Pablo City Council by Resolution authorized a table sponsorship for the San Pablo Chamber of Commerce Lifetime Achievement Awards Dinner on Saturday, September 21, 2013 *(Source: CC Agenda Item dated September 3, 2013)*
- The City of San Pablo City Council by Resolution authorized a Maple Hall fee waiver request from Contra Costa County Behavioral Health Services – West County Adult Mental Health Services for their staff retreat on Monday, September 23, 2013. *(Source: CC Agenda Item dated September 3, 2013)*
- The City of San Pablo City Council by Resolution authorized a Maple Hall fee waiver request from Rotary Club of San Pablo for the Ragin Cajun fundraiser on Saturday, September 21, 2013 *(Source: CC Agenda Item dated September 3, 2013)*



- The City of San Pablo City Council by Resolution authorized an event sponsorship of \$5,000 for the annual Lytton Band of Rancheria Casino Golf Tournament and Fundraiser to benefit Lifelong-Brookside Medical Center on Monday, October 7, 2013 (*Source: CC Agenda Item dated September 16, 2013*)
- The City of San Pablo City Council by Resolution authorized a \$1,000 sponsorship for Weigh of Life's annual "Spooky Fun-Raiser" event held on November 1, 2013 (*Source: CC Agenda Item dated September 16, 2013*)
- The City of San Pablo City Council by Resolution authorized an event sponsorship of \$3,000 for the Los Cenzontles Mexican Art Center's "Supporting Roots Campaign" fundraiser benefit concert at the Craneway Pavilion on Sunday, September 29, 2013 (*Source: CC Agenda Item dated September 16, 2013*)
- The City of San Pablo City Council by Resolution authorized a correcting Resolution 2013-134 that was approved at the September 3, 2013 council meeting due to an administrative error and pursuant to the FY 2013-14 adopted Public Facility & Field Rental Policies for the Maple Hall Fee waiver request from the Rotary Club of San Pablo (*Source: CC Agenda Item dated September 16, 2013*)

## COMMUNITY SERVICES

### Senior Services

- The City of San Pablo City Council by Resolution authorized the City Manager to negotiate and execute an agreement with Transit Strategies to provide a Senior Transportation and Paratransit needs assessment and efficiencies review for a total amount not to exceed \$36,392 for fiscal year 2013-2014 (*Source: CC Agenda Item dated September 3, 2013*)

### Youth Services

- The City of San Pablo City Council by Resolution authorized a fee waiver for use of Davis Park for the 2013 San Pablo Youth Summit on Wednesday, September 25, 2013 (*Source: CC Agenda Item dated September 16, 2013*)

## FISCAL MANAGEMENT

- The City of San Pablo City Council by Resolution authorized a transfer of \$80,000 from the Budget Stabilization Fund to the City Council Departmental Budget and authorizing an expenditure of \$350,000 to the SPEDC as its share of FY 2013/14 Measure Q Earmarked Funds. (*Source: CC Agenda Item dated September 3, 2013*)

- The City of San Pablo City Council by Resolution authorized to proceed with a FY 2013-14 recommended consolidation of city-provided community grant programs, and revised San Pablo Community Foundation Governance Structure for implementation prior to FY 2014-15 grant cycle; and proceed with 20-day Notice of Vacancy for one vacant San Pablo Community Foundation Board of Director position (*Source: CC Agenda Item dated September 16, 2013*)

## **HUMAN RESOURCES**

- The City of San Pablo City Council by Resolution authorized the approval of agency-wide healthy beverage, food, and movement guidelines as developed by the City's Employee Wellness Committee, in cooperation with the Bay Area Nutrition and Physical Activity Collaborative (BANPAC) (*Source: CC Agenda Item dated September 3, 2013*)
- The City of San Pablo City Council by Resolution authorized the City Manager or his designee to amend the Part-Time Classification Plan to include various new classifications and establish associated hourly range schedules (*Source: CC Agenda Item dated September 16, 2013*)

## **INTERGOVERNMENTAL RELATIONS**

- The City of San Pablo City Council by Minute Order authorized to ratify responses to Contra Costa Grand Jury Reports No. 1308 "*Encouraging Citizens to Apply for Grand Jury Service*"; No. 1302 "*Outsourcing Municipal Services*"; No. 1305 "*Getting to Clean Water in Contra Costa County*", and No. 1311 "*Assessing Fiscal Risk*" (*Source: CC Agenda Item dated September 3, 2013*)

## **LEGAL SERVICES**

- The City of San Pablo waived first reading and introduced an Ordinance of the City Council of the City of San Pablo regulating the use of plastic carryout bags and recyclable paper carryout bags and promoting reusable bags within the City; consideration of Environmental Impact Report (EIR) approved by lead agency RecycleMore, and direction to file Notice of Determination as responsible agency (*Source: CC Agenda Item dated September 16, 2013*)

## **LEGISLATIVE**

- The City of San Pablo City Council by Minute Order authorized to ratify letter of opposition to SB 594 (Hill) Limiting Ballot Advocacy by Local Government Organizations transmitted on August 28, 2013 (*Source: CC Agenda Item dated September 16, 2013*)

## LOCAL SUCCESSOR AGENCY

- The Resolution of the City Council of the City of San Pablo, California, acting as Local Successor Agency to the Redevelopment Agency Resolution of the San Pablo Local Successor Agency approving an Administrative Budget and adopting the recognized obligation payment schedule for January through June 2013 ("ROPS 13-14B") (Source: CC/LSA Agenda Item dated September 16, 2013)

## PUBLIC WORKS

- The City of San Pablo City Council by Resolution authorized the City Manager to assign FY 2013/14 General Funds budgeted for the "2013/14 Tier 1" Capital Improvement Projects, finding the projects categorically exempt from the California Environmental Quality Act under Sections 15301, 15302, 15304, 15333, statutorily exempt under Section 15262, and to have no potential for causing a significant effect on the environment, Section 15061(B)(3) (Source: CC Agenda Item dated September 3, 2013)

\*\*\*\*\*

For more information, please refer all inquiries to the City Manager and/or designee.

**As Authorized:**

**Date of Release:** March 3, 2014

\*\*\*\*\*

**MATT RODRIGUEZ**

**CITY MANAGER / EXECUTIVE DIRECTOR**

**CITY OF SAN PABLO / SAN PABLO ECONOMIC DEVELOPMENT CORPORATION (SPEDC)**

**13831 San Pablo Avenue**

**San Pablo, CA 94806**

**Office:** (510) 215-3016 | **Mobile:** (510) 932-3594 | **Fax:** (510) 620-0204

**Email:** [MattR@SanPabloCA.gov](mailto:MattR@SanPabloCA.gov) **Website:** [www.SanPabloCA.gov](http://www.SanPabloCA.gov)



# REQUEST FOR CITY COUNCIL ACTION



CITY of SAN PABLO  
*City of New Directions*

PREPARED BY: Matt Rodriguez, City Manager

DATE OF MEETING: March 3, 2014

DATE: February 24, 2014

PHONE: (510) 215-3006

SUBJECT: CITY COUNCIL AUTHORIZATION TO ESTABLISH A TEMPORARY AD-HOC SUBCOMMITTEE FOR REVISIONS TO THE CITY MANAGER EMPLOYMENT CONTRACT

APPROVED:

DEPARTMENT HEAD

CITY MANAGER

CITY ATTORNEY

## RECOMMENDATION

The City Council authorizes by Minute Order to establish a Temporary Ad-Hoc SubCommittee (Councilmember Calloway and Councilmember Valdez) to meet with the City Attorney and City Manager to discuss and recommend amendments to the City Manager Employment Agreement, and to report back to the City Council for formal approval, and execution by Resolution.

## COMPLIANCE STATEMENTS

### **FY 2013-14 Council Priority Workplan Compliance Statement**

City Council Temporary "Ad-Hoc" SubCommittees are contained in the FY 2013-15 Council Priority Workplan, effective July 1, 2013.

### **CEQA Compliance Statement**

This is not a project as defined by CEQA

## BACKGROUND

The City Council is authorized by Section 2.04.020 of the San Pablo Municipal Code to appoint and employ a City Manager who is an at-will, contract employee of the City. The City Manager receives just compensation and benefits under an employment agreement which from time to time may be reviewed, with changes formally executed by Resolution (SPMC 2.04.080). On February 21, 2014, the City Council provided direction to the City Manager to establish a Temporary City Council Ad Hoc SubCommittee to work directly with the City Manager and City Attorney on amending the City Manager Employment Agreement, and set a preliminary timeline before June 30, 2014 to complete this process with the City Council.

## FISCAL IMPACT

None associated with this action.

### **Departmental Coordination**

☐ Dev. Services \_\_\_\_\_

☒ Finance

☐ Police \_\_\_\_\_

☐ Public Works \_\_\_\_\_

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# REQUEST FOR COUNCIL ACTION



CITY OF SAN PABLO  
City of New Directions

PREPARED BY: City Manager

DATE OF MEETING: 03/03/2014

DATE: February 3, 2014

PHONE: (510) 215-3012

**SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING SECTION 8.02.020 OF THE SAN PABLO MUNICIPAL CODE TO DECLARE AS A PUBLIC NUISANCE THE CULTIVATION OF MARIJUANA, AND ADDITION OF ORDINANCE TO COUNCIL PRIORITY WORKPLAN.**

APPROVED:

  
DEPARTMENT HEAD

  
CITY MANAGER

  
CITY ATTORNEY

## RECOMMENDATION

1. Add item to the **FY 2013-15 COUNCIL PRIORITY WORKPLAN**, as a policy item under **PUBLIC SAFETY**.
2. Waive first reading and introduce ordinance.

## BACKGROUND

**CEQA Compliance Statement.** Pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), the ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

In 2006 the City Council adopted an ordinance, codified as Chapter 5.34 of the San Pablo Municipal Code, prohibiting medical marijuana dispensaries in the City of San Pablo. The attached ordinance amends the City's Property Maintenance Ordinance to make the indoor and outdoor *cultivation* of marijuana in the City of San Pablo a public nuisance. *The Planning Division's comprehensive zoning code, in progress now, update will contain parallel provisions.*

Under its police power, the City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. (Cal. Const. Art. XI, Section 7.) While California state law protects the right of qualified medical marijuana patients and their caregivers to cultivate marijuana for medicinal purposes without fear of criminal prosecution for violation of state law, the State Supreme Court recently held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, that the objectives of such state laws (the Compassionate Use Act and the Medical

### Departmental Coordination

☐ Comm. Services \_\_\_\_\_

☒ Finance 

☐ Police \_\_\_\_\_

☐ Public Works \_\_\_\_\_

Marijuana Program Act) were “modest,” and those acts did not create a “broad right” to access medical marijuana. *Inland Empire* held that the CUA and the MMPA do not preempt the authority of cities and counties to regulate, even prohibit, facilities that distribute medical marijuana. (Id. at p. 762) The reasoning of *Inland Empire* applies to the cultivation of medical marijuana as well as its distribution, as both are addressed in the CUA and MMPA. *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975. In *Maral*, the City of Live Oak’s blanket prohibition against the indoor or outdoor cultivation of marijuana was upheld by the Court of Appeal.

Marijuana cultivation poses the potential threat of criminal harm as well as interference with the welfare of surrounding property owners. Mature medical marijuana plants often emit offensive “skunk like” fumes, which can interfere with the use and enjoyment of neighboring properties. Moreover, the presence of medical marijuana plants grown outdoors creates a risk to public safety, since their value and visibility encourage trespass and theft, posing the accompanying risk of violence and injury. Marijuana cultivation indoors raises many of the same concerns, with the added problem of building, fire and electrical code violations. To the extent that medical marijuana is grown in a location close to schools, there is also the potential for theft and use by school-aged children.

Under the *Maral* and *Inland Empire* cases, a city ordinance prohibiting cultivation of medical marijuana is not preempted by state law. The Police Department’s report, dated January 22, 2014, discusses further impacts on the City from marijuana cultivation.

## **Discussion**

For reference purposes, the following is a brief history of medical marijuana laws in the State of California.

### **a. California Medical Marijuana Legislation**

On November 5, 1996, California voters passed Proposition 215 (known as the Compassionate Use Act (“Act”), which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician’s recommendation. The Act held that Health & Safety Code Section 11357<sup>1</sup>, which otherwise criminalizes the possession of marijuana, shall not apply to a patient or to a patient’s primary caregiver who possesses or cultivates marijuana for medicinal purposes upon the written or verbal recommendation or approval of a physician<sup>2</sup>.

In January 2004, the legislature passed the Medical Marijuana Program Act (“MMPA”). Among other things, the MMPA requires the California Department of Public Health to establish and maintain a program providing for voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system. Medical marijuana identification cards are intended to help law enforcement officers identify and verify that cardholders are legally permitted to cultivate, possess and transport certain amounts of marijuana without being subject to arrest under specific conditions. (Sections 13362.71(e), 11362.78)

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<sup>1</sup> All further statutory references are to California’s Health and Safety Code

<sup>2</sup> It should be noted that possession or use of marijuana remains a criminal offense under federal law, which categorizes marijuana as a drug with “no currently accepted medical use.”

In addition to establishing the identification card program, the MMPA also recognizes a qualified right to collective and cooperative cultivation of medical marijuana. (Sections 11362.7, 11362.77, 11362.775.)

The MMPA establishes the term "qualified patient," defined as a person whose physician has recommended the use of marijuana to treat a serious illness or any other illness for which marijuana provides relief. (Section 11362.5(b)(1)(a).) The MMPA also establishes the term "primary caregiver," defined as a person who is designated by a qualified patient and "has consistently assumed responsibility for the housing, health, or safety" of the patient." (Section 11362.5(e).) Primary caregivers are permitted to grow and supply marijuana to designated qualified patients, and a person may serve as a primary caregiver to more than one patient, provided that the patients and caregiver all reside in the same city or county. (Section 11362.7(d)(2).)

The justifications for the banning of medical marijuana cultivation under the City of San Pablo's police power include: (1) malodorous fumes emitted from mature plants which can interfere with the use and enjoyment of neighboring properties by their occupants; (2) a risk to public safety, based on the value of marijuana plants and the accompanying threat of break-ins and theft, creating the accompanying risk of violence and injury; (3) the potential for theft and use by school age children where medical marijuana is cultivated in a location close to schools.

Pending direction from the Council, the ordinance presented herein is a full ban against both indoor and outdoor cultivation in the City of San Pablo. Certain groups have been aggressive in filing legal challenges against local ordinances which they believe infringe on their constituents' rights. The more that an ordinance infringes on the right to cultivate or dispense medical marijuana, the more likely it is to be challenged. Nevertheless, after the *Inland Empire* and *Maral* cases, the law in California seems fairly well established that bans on the cultivation of medical marijuana will be upheld.

### **FISCAL IMPACT**

No direct fiscal impact.



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## **ORDINANCE NO. 2014-**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING SECTION 8.02.020 OF THE SAN PABLO MUNICIPAL CODE TO DECLARE AS A PUBLIC NUISANCE THE CULTIVATION OF MARIJUANA.**

#### **THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES ORDAIN AS FOLLOWS:**

##### Section 1: Findings.

The City Council finds as follows:

1. In 1970, Congress enacted the Controlled Substances Act (CSA) which, among other things, makes it illegal to import, manufacture, distribute, possess or use marijuana in the United States;
2. In 1996, the voters of the State of California approved Proposition 215, known as the Compassionate Use Act (CUA) (codified as Health and Safety (H&S) Code Section 11362.5 et seq.);
3. The CUA creates a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances;
4. In January 1, 2004, the "Medical Marijuana Program Act" (MMPA), codified as H&S Code Sections 11362.7 to 11362.83, was enacted by the State Legislature to clarify the scope of the Act and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with the MMPA;
5. The CUA expressly anticipates the enactment of additional local Legislation, providing that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes" (H&S Code Section 11362.5);
6. The City Council finds that the cultivation of medical marijuana has significant impacts or the potential for significant impacts on the City. These impacts include damage to buildings, dangerous electrical alterations and use, inadequate ventilation, increased robberies and other crime, and the nuisance of strong and noxious odors. The City Council takes legislative notice of the fact that several California cities and counties which have permitted the establishment of medical marijuana distribution facilities or "dispensaries" have experienced serious adverse impacts associated with and resulting from such uses. According to these communities, according to news stories widely reported and according to medical marijuana advocates, medical marijuana dispensaries and cultivation have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by, minors and other persons

without medical need in the areas immediately surrounding such medical marijuana distribution facilities. The City has received complaints about the cultivation of marijuana in the City, and the police department has reported criminal activity in the vicinity of such operations. The City Council takes notice of, and incorporates into these findings, the January 22, 2014 staff report on Marijuana impacts submitted to and recommended by the Chief of Police regarding marijuana arrests, school offenses, safety hazards, grow houses, quality of life and nuisance issues, criminal behavior and links to organized crime. The City Council reasonably anticipates that the City of San Pablo will experience further similar adverse impacts and effects. A California Police Chiefs Association compilation of police reports, news stories and statistical research regarding such secondary impacts is contained in a 2009 white paper report located at: <http://www.procon.org/sourcefiles/CAPCAWhitePaperonMarijuanaDispensaries.pdf>. Based on similar findings, the City Council has already adopted an ordinance prohibiting marijuana dispensaries in the City;

7. The City Council further takes legislative notice that the use, possession, distribution and sale of marijuana remain illegal under the CSA (*Bearman v. California Medical Bd.* (2009) 176 Cal.App.4th 1588); that the federal courts have recognized that despite California's CUA and MMPA, marijuana is deemed to have no accepted medical use (*Gonzales v. Raich*, 545 U.S. 1; *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 532 U.S. 483); that medical necessity has been ruled not to be a defense to prosecution under the CSA (*United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483); and that the federal government properly may enforce the CSA despite the CUA and MMPA (*Gonzales v. Raich*, 545 U.S. 1);
8. The State Supreme Court recently held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, that the objectives of the Compassionate Use Act and the Medical Marijuana Program Act were "modest," and those acts did not create a "broad right" to access medical marijuana. Inland Empire held that the CUA and the MMPA do not preempt the authority of cities and counties to regulate, even prohibit, facilities that distribute medical marijuana. The reasoning of Inland Empire applies to the cultivation of medical marijuana as well as its distribution, as both are addressed in the CUA and MMPA. *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975. In *Maral*, the City of Live Oak's blanket prohibition against the indoor or outdoor cultivation of marijuana was upheld by the Court of Appeal.
9. Marijuana, even when grown for medicinal purposes, is extremely valuable and has a high market value. The strong smell of marijuana growing creates an attractive nuisance that attracts persons to the growing marijuana, and creates the risk of burglary, trespassing, robbery and armed robbery, potentially resulting in serious injury or death, and requiring scarce police and public safety resources. To the extent the location is close to or accessible from schools, marijuana cultivation increases the potential for theft and use by school age children. An ordinance

prohibiting the cultivation of marijuana is necessary and appropriate to maintain and protect the public health, safety and welfare of the citizens of San Pablo.

10. To the extent that the City's prohibition against marijuana cultivation is determined to be preempted by state penal provisions regarding marijuana, this ordinance shall be interpreted to apply to medical marijuana cultivation only.

Section 2: Section 8.02.020 of the San Pablo Municipal Code, entitled "Unlawful public nuisances" is hereby amended to add subsection O, to read as follows:

"O. Cultivation of Marijuana. No person owning, renting, leasing, occupying, or having charge or possession of any parcel shall cause or allow such parcel to be used for the outdoor or indoor cultivation of marijuana plants. Violations of this provision shall be considered a public nuisance, and may be enforced according to the procedures set forth in this chapter and chapter 1.10 of the San Pablo Municipal Code, and by the enforcement remedies conferred upon the City by Civil Code Section 3494, Code of Civil Procedure Section 731, Government Code Section 38773, or any other lawful authority, civil, administrative or criminal. Nothing in this provision is intended to impair any viable legal defense to State charges to a person using or in possession of medical marijuana pursuant to the Compassionate Use Act (California Health and Safety Code Section 11362.5) or the Medical Marijuana Program Act (California Health and Safety Code Section 11362.7 et. seq.). Nothing in this provision is intended to authorize the cultivation, possession or use of marijuana for non-medical purposes in violation of state or federal law."

Section 3. Severability. If any sections, subsections, sentences, clauses, phrases or portions of this ordinance are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

Section 4: CEQA Exemption. The City Council finds pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

Section 5. This ordinance shall become effective thirty (30) days following its adoption and shall be published once within fifteen (15) days after adoption in the West County Times, a newspaper of general circulation in the City of San Pablo, together with the names of those council members voting for or against; or, in the alternative, a summary prepared by the City Attorney's Office shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the city clerk at least five days prior to the city council meeting at which the ordinance is to be adopted. Within 15 days after adoption of the ordinance, the city clerk shall publish a summary of the ordinance with the names of those city council members voting for and against the ordinance or amendment and the city clerk shall post in the office of the city

clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those city council members voting for and against the ordinance or amendment.

If the city clerk determines that it is not feasible to prepare a fair and adequate summary of the ordinance, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the city shall be published at least five days prior to the city council meeting at which the ordinance is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about, the ordinance, including information sufficient to enable the public to obtain copies of the complete text of the ordinance or amendment, and the names of those city council members voting for and against the ordinance or amendment.

\* \* \* \* \*

First read at a \_\_\_\_\_ meeting of the City Council of the City of San Pablo on the \_\_\_\_\_, 2014, and finally passed and adopted at a \_\_\_\_\_ meeting of said City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES: COUNCILMEMBERS  
NOES: COUNCILMEMBERS  
ABSENT: COUNCILMEMBERS  
ABSTAIN: COUNCILMEMBERS

ATTEST:

APPROVED:

\_\_\_\_\_  
Ted J. Denney, City Clerk

\_\_\_\_\_  
Paul Morris, Mayor

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# POLICE DEPARTMENT

*Walter N. Schuld, Chief of Police*



CITY of SAN PABLO

*City of New Directions*

**DATE:** January 22, 2014

**TO:** Walter N. Schuld, Chief of Police  
Via the Chain of Command

**FROM:** David M. Krastof, Commander

**SUBJECT:** Staff Report: Marijuana Impacts

## **Background**

It is a violation of federal law to import, manufacture, distribute, possess or use marijuana in the United States under the Controlled Substances Act of 1970. Nonetheless, in 1996, the voters of the State of California approved Proposition 215, known as the Compassionate Use Act allowing limited cultivation and possession of marijuana for medicinal use. The guidelines for cultivation and possession of marijuana varied from county-to-county and this proposition did not have a significant impact on public safety in San Pablo.

In 2004, the California State Legislature's enactment of the Medical Marijuana Program Act (SB240) became effective, which provided guidelines that made the unlawful possession and cultivation of marijuana easier to accomplish. A whitepaper by the California Police Chiefs' Association revealed that once this senate bill was enacted, medical marijuana dispensaries and cultivation resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by, minors and other persons without medical need in the areas immediately surrounding such medical marijuana distribution facilities. This act has had detrimental effects on public safety in the City of San Pablo and the problem seems to be worsening as marijuana use becomes more socially acceptable.

## **Enforcement**

### **Generally**

In San Pablo, most people who possess or cultivate marijuana have medical marijuana cards or prescriptions and we do not expend our investigative resources on determining whether the prescriptions are unjustified or fictitious unless we have cause to believe they are engaged in unlawful sales, massive cultivation or are otherwise harming the

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[www.sanpablopolice.org](http://www.sanpablopolice.org)

community. Therefore, we do not routinely document small marijuana grows or mere possession unless we have evidence of illegality. Most of our ongoing problems associated with marijuana are undocumented and we do not have records showing the true prevalence of marijuana in our community. Many of the criminal offenders we arrest do display symptoms of marijuana use, but our focus is at the underlying criminal offense, not their marijuana use.

## Patrol

The Patrol Division primarily investigates unlawful use of marijuana that is brought to their attention. The following represents Patrol's enforcement efforts over the last five years.

Year	Felony Sales	Felony Transportation	Felony Cultivation	Misdemeanor Possession	Infraction Possession	TOTAL
2013	20	4	4	10	1	39
2012	10	2	1	9	3	25
2011	8	0	1	5	Record Destroyed	14
2010	14	0	0	6	Record Destroyed	20
2009	14	0	0	6	Record Destroyed	20

Last year, we had a significant increase in marijuana violations in our community. Although we cannot fully explain the increase, there has been much positive media attention toward marijuana because of the legalization of marijuana in Oregon and Colorado. Another factor could be the prevalence of THC-rich marijuana that mirrors the effects of stronger street drugs.

## Offenses at Schools

Of the cases listed above, we do not have any documented marijuana possession or sales occurring at our local elementary schools. Nor do we have any "less than an ounce" infraction cases at any of the schools over the last five years. No marijuana arrests were made at Helms Middle School in 2009 or 2010. However, in 2011, three people were arrested for misdemeanor possession of marijuana at Helms Middle School; in 2012, one person was arrested for misdemeanor marijuana possession; and, in 2013, a felony marijuana arrest was made at the school.

## Gateway Drug

In the media, there is considerable debate as to whether marijuana is addictive enough to be a gateway drug to stronger drugs. It is often characterized as harmless and compared to alcoholic beverages. However, the debate is inconsequential as both alcohol and marijuana can be habit forming and detrimental to public safety. Our experience has shown that most people start with weaker drugs and slowly progress to stronger drugs over time. However, at least with alcoholic beverages, the industry is legal and heavily regulated, so consumers know what they are getting. Marijuana has ever-increasing THC levels and its potency can rival stronger drugs. Additionally, the marijuana grows are clandestine, so the consumers do not know what they are

ingesting. The police department has responded to medical emergencies in which teenagers smoked marijuana, expecting a mild buzz, but instead became overwrought with paranoia; one girl even jumped from a moving vehicle onto the roadway.

## **WestNET**

Although the police department does not have personnel assigned exclusively to marijuana enforcement, WestNET handles unlawful marijuana cultivation cases that are associated with organized distribution rings. WestNET handled fourteen cases over the last five years, nine of which occurred in the last two years (4 in 2013, 5 in 2012, 2 in 2011, 2 in 2010 and 1 in 2009). In addition to these illicit grows, investigators have encountered California compliant collective grows with as many as 43 plants. Also, WestNET investigators seized numerous firearms and discovered significant money laundering from the operators of the more sophisticated marijuana grows.

## **Trends**

The bulk of our grow houses have been in residential areas. However, two straw businesses were setup on 23<sup>rd</sup> Street and Rumrill Boulevard to grow marijuana. We also had four marijuana grows setup in the industrial complex at Giant Road and Broadway Avenue. All of these locations have significant life safety hazards.

## **Safety**

Grow houses are oftentimes fire hazards because of the service connections and wires are overloaded. The stress of the electric overload by the high-power grow lights and fans blow the transformers and fires start. We had one grow house catch fire from this.

Preparation of the marijuana is often conducted at the grow houses and there is a mix of chemicals that can ignite explosion. We had this happen at an apartment in which a person was making honey oil from ground marijuana and the butane fumes amassed to the point that the apartment's windows blew out.

Most of the grow houses in San Pablo were rentals that were illegally retrofitted in an unsafe manner in violation of the building code. This has the effect of leaving the owners with unsafe properties including structural damage, significant electrical problems and mold that needed to be brought up to code. We had one house that required an emergency response because the retrofitted water lines leaked over the retrofitted electricity, which created sparking.

## **Quality of Life**

We located a marijuana grow house when a nearby resident became "fed up" with the noxious odors that emanated from the residence. Oftentimes the odors at grow houses impair public health as they are caused by chemicals, fertilizers, increased carbon dioxide levels and the accumulation of mold. This is especially dangerous if the house is inhabited.



## **Nuisance**

The City does not actively search public lands for marijuana, but in 2013, San Pablo Public Works located mature marijuana plants in the creek at Davis Park on city property during a cleanup. Medical marijuana growers may plant twelve immature plants and reduce the crop to six plants once the plants mature. Most marijuana growers spend a lot of time and money on their plants. Human nature would dictate a reluctance to destroy these plants when they can be dispersed and hidden on public and vacant lands nearby.

## **Criminal Behavior**

The whitepaper produced by the California Police Chiefs' Association explained, "Near harvest time, rival growers and other uninvited enterprising criminals sometimes invade grow houses to beat "clip crews" to the site and rip off mature plants ready for harvesting. As a result, violence often erupts from confrontations in the affected residential neighborhood.

Three of the marijuana grows we discovered over the last five years were through reports of criminal conduct. One report was in 2011 for an in progress disturbance in which the grow operators ran into the residence to get away from other people. In 2013, there was a report of an in-progress residential burglary in that someone reported a door being kicked in and the last incident was for an in-progress assault with a firearm. The suspects in the assault claimed self-defense in that the victim broke into their home to steal their marijuana.

Not including the marijuana grow incidents mentioned above, drug related home invasion robberies to collect drug debts are becoming more prominent (0 in 2009, 1 in 2010, 3 in 2011, 4 in 2012 and 3 in 2013). In most of these cases, the victims denied drug involvement and were uncooperative. However, in one case, the victim explained that a marijuana deal was initiated and that the incident was "a drug deal gone bad." In the others, witnesses described behavior associated with drug use or drug sales, but the types of drugs were not known.

From 2009 through 2013, we had one homicide that was the direct result of a marijuana drug rip-off.

## **Links to Organized Crime**

In 2007, one marijuana grow house was operated by an "inactive" member of the Hell's Angels, which is an outlaw motorcycle gang. However, in this case, we were unable to prove that the marijuana grow was for the benefit of the Hell's Angels organization. In the last five years, three of our grow houses were operated by an illicit Asian drug trafficking organization (DTO). All three grows had an excess of 400 plants. The DTO also operated more than 50 other indoor grows in the Bay Area and established a garden supply store on Giant Road that specialized in marijuana growing equipment.

Members of the "14" criminal street gang organized marijuana sales on Standard Avenue. The residents of this neighborhood did not report incidents to the police indicating that they were too fearful to call the police, because of retaliation by the marijuana dealers. This allowed assaults and prostitution to prevail in the neighborhood. Ultimately, the criminal activity subdued after numerous arrests and the drug ring's leader was murdered during a gangland shooting in Richmond.

### **Conclusions**

Passage of SB240 has had negative effects on public safety in the City of San Pablo. The problems associated with marijuana have worsened and marijuana use has become more widespread as the media presents a positive image of the trade while at the same time the drug has become more potent. In our community, marijuana crimes have nearly doubled in five years and the marijuana trade has resulted in homicide, assault and robbery; in addition, we have experienced explosions, fires, sparking and noxious odors at the marijuana grows, which presents serious safety hazards. Additionally, the marijuana trade brings organized crime to our community; and serious marijuana related drug crimes began to occur at our middle school.

Already this month, the Detective Division discovered that the suspect in the child molest of a thirteen year old girl was growing and selling marijuana. Our first shooting victim of the year, who was paralyzed, was attempting to purchase marijuana. Also, the Patrol Division arrested a marijuana dealer armed with a simulated handgun. It appears that the crime trends, related to marijuana, which exploded in 2012 and 2013, will continue to increase in 2014.

*D. Krastof*  
**David Krastof, Cmdr.**  
**Services Division**

**January 23, 2014**

This report was prepared to document the impacts and the growing marijuana problem in San Pablo. I recommend the marijuana ordinance prepared by City Attorney Brian Libow be enacted.

*W. N. Schuld*  
**Walter N. Schuld**  
**Chief of Police**

cc: **Matt Rodriguez, City Manager**  
**Brian Libow, City Attorney**

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CITY OF SAN PABLO  
City of New Beginnings

# REQUEST FOR COUNCIL ACTION

PREPARED BY: City Manager

DATE OF MEETING: 3/3/2014

DATE: February 18, 2014

PHONE: 215-3001


**SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO CALLING FOR AND GIVING NOTICE OF A JUNE 3, 2014 ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL OF A ONE-QUARTER OF ONE PERCENT (0.25%) TRANSACTIONS AND USE (SALES) TAX TO FUND EMERGENCY MEDICAL SERVICES AT SAN PABLO FIRE STATION #70, ESTABLISHING THE POLICIES AND PROCEDURES FOR SUCH AN ELECTION AND REQUESTING THAT THE COUNTY OF CONTRA COSTA CONDUCT SUCH AN ELECTION**

**AND, AN ORDINANCE OF THE CITY OF SAN PABLO IMPOSING A TRANSACTIONS AND USE TAX FOR EMERGENCY MEDICAL SERVICES TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

APPROVED:

  
DEPARTMENT HEAD

CITY MANAGER

  
CITY ATTORNEY

## RECOMMENDED ACTION

1. Adopt resolution by a 2/3 vote of all members of the Council (i.e. 4 votes).
2. Designate two Councilmembers to author the ballot argument in favor of the measure. The designation will be inserted into the adopted resolution.
3. Move to receive and file the 2013 Survey Report presented by Strategic Research Institute, Inc, and post it on the City's website.
4. Waive first reading and introduce ordinance, subject to approval by electorate.

## CITY COUNCIL PRIORITY WORKPLAN

In its 2013-15 Council Priority Work Plan, PUBLIC SAFETY, the City Council directed staff to consider the feasibility of Fire Safety Assessment/Evaluation Services, and also the feasibility of a Public Safety Funding Mechanism.

### Departmental Coordination

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Staff retained the firm of Strategic Research Institute to conduct a survey in late 2013, which indicated that the community looked favorably towards a ¼ % sales tax measure to fund Emergency Medical Services (EMS) at Station 70 in San Pablo.

### **CEQA COMPLIANCE**

Approval of this Resolution to place on the ballot a special tax that will provide funding for an EMS squad to use smaller EMS vehicles to respond to EMS calls in the City of San Pablo, as opposed to more expensive, larger fire rigs, is exempt from the California Environmental Quality Act under CEQA Guidelines § 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. ConFire will respond to the same medical emergencies as before. The funds raised will be restricted to funding an EMS squad which will respond to emergency medical calls in the City via smaller EMS vehicles rather than larger fire vehicles that get worse gas mileage and emit more emissions. In addition, the activity is not a project under CEQA pursuant to Guidelines Section 15378(b)(5): Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

The resolution directs the City Manager to ensure that a notice of exemption is filed immediately with the County Clerk.

### **BACKGROUND**

#### **Urgent Need For Emergency Medical Services Funding.**

San Pablo residents are serviced by the Contra Costa County Fire Protection District (ConFire) for their emergency medical and fire protection services. ConFire is currently in a financial crisis. Since 2008, it has seen a \$32 million decline in property tax revenue. In January 2012, the County Board of Supervisors approved a Fire Station Closure Plan for County Fire Stations which has closed five (5) fire stations to date (23 Engine Companies Remain). In November, 2012, a County-wide parcel tax measure (Measure Q) failed to garner sufficient 2/3rds vote to pass a \$75.00 per residential parcel tax to fund Fire and EMS Services Countywide (\$17 million annually if adopted; \$68 million over 4 years). ConFire is therefore facing insolvency in FY 2017, with a structural deficit of six million dollars to ten million dollars each year.

There is only one county fire station in the City of San Pablo, Fire Station #70 in the middle of San Pablo. Station 70 provides San Pablo with both fire and emergency medical services. Due to mutual aid agreements, Station 70 also provides service to seven other county unincorporated areas -- (i) Bayview, (ii) Mifflin-Barranca, (iii) North Richmond, (iv) Montalvin Manor, (v) Rollingwood, (vi) Tara Hills, and (vii) portions of El Sobrante/East Richmond Heights; and to the City of Richmond through automatic aid agreements;

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The current annual operating expenses required to fund Fire Station 70 amount to \$2.8 million per year. The City of San Pablo is able to contribute only approximately \$811,000 annually.

San Pablo's Station 70 is the busiest fire station in Contra Costa County. In 2012, for example, Station 70 responded to a total of 3,672 incidents in its service area. Of that total, 3,147, or 86%, were San Pablo calls. **82.5% of the service calls in San Pablo were EMS calls for Emergency Medical Services.** Due to this overwhelming need for emergency medical services for its residents, and the extremely high cost of fire engines responding not to fire calls, but to EMS calls in the City of San Pablo, it is essential for the public health, safety and welfare for City residents that a funding method be found to support and ensure adequate EMS response in the City of San Pablo through smaller EMS vehicles to complement more expensive fire vehicles. This is particularly so in light of the threatened, impending closure of Doctor's Medical Center.

It is therefore recommended that the City Council place a Transactions and Use (Sales) Tax Ordinance, as authorized by Revenue and Taxation Code section 7285.9 and attached hereto as Exhibit A, as a measure before the voters at the June 3, 2014 special election. **Such tax shall be a special tax, the revenues of which shall only be used to fund Emergency Medical Services** at Fire Station #70 in the City of San Pablo; should the County close Station 70, the revenues could only be used to provide alternative EMS services for the City of San Pablo. All funds from this local revenue measure are required to stay in San Pablo to provide EMS services and cannot be taken by the State. Fiscal accountability will be ensured by requiring independent citizens' oversight, mandatory financial audits, and yearly reports to the community.

### **Ballot Measure Language**

The attached resolution proposes to place on the June ballot an ordinance that would implement a local sales tax (transactions and use tax), in the amount of  $\frac{1}{4}$  (0.25) percent. This will be a special tax, legally restricting the funds generated from the tax to the purposes set forth in the measure. Passage requires a two-thirds vote of the electorate, and the City Council must determine by a two-thirds vote to place it on the ballot. The question to be placed before the voters is:

*"To ensure continued and adequate Emergency Medical Services for San Pablo residents, given the recent threat that County Fire Station #70, which is located in San Pablo, may be downsized or closed and given that Station 70 presently provides 100% of the EMS services for all San Pablo residents, shall San Pablo increase its sales tax by one-quarter percent to fund the creation of an Emergency Medical Services Squad, with mandatory audits, community oversight, and annual reporting."*

Again, this is a special tax requiring the approval of two-thirds of qualified electors casting

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votes. The attached ordinance, Exhibit A, at Section 3.26.140, provides for mandatory audits, and community oversight and reporting, through appointment of a committee consisting of San Pablo residents and business representatives. The committee's report and recommendations shall be completed by a date to allow for it to be considered as part of each annual budget process.

### **Transactions and Use Tax**

In California there are approximately 100 cities and counties with local sales tax measures, and many more special districts and counties. In fact, 90% of the State's population resides in at least one district that has a local sales tax (transactions and use tax). Several cities in West Contra Costa County impose additional transactions and use (sales) taxes. This additional tax revenue stays in each city, and cannot be taken by the County or State. Richmond has a ½ cent tax, imposed in 2005. Pinole has a ½ cent tax, imposed in 2007. El Cerrito has two separate ½ cent taxes, imposed in 2008 and 2011. Concord approved a ½ cent tax increase in 2010. San Pablo has a ½ cent tax approved in 2012; the tax decreases to ¼ cent after five years, and sunsets after 10 years. Antioch and Pittsburg adopted ½ cent sales taxes in 2012. Hercules also adopted a temporary ½ cent sales tax in June 2012 sales tax increase 0.50% (8.25% to 8.75%).

As explained in more detail below, sales tax is paid by purchasers of retail taxable goods from businesses located in San Pablo. Thus, the tax is imposed on purchasers of goods, whether San Pablo residents or not. In this way the tax burden is not imposed exclusively on San Pablo residents. Local sales tax measures have enjoyed recent popularity because the cost increment is low, it is not a property-based tax, out-of-town visitors share in the cost, and the sales tax is not applied to groceries or prescription medication.

Statutory authority to schedule an election for a special tax is set forth in the State Revenue and Taxation Code, section 7285.91, which provides:

*As an alternative to the procedure set forth in Section 7285.9, the governing body of any city may levy, increase, or extend a transactions and use tax for specific purposes. The tax may be levied, increased, or extended at a rate of 0.125 percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:*

*(a) The ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue.*

*(b) The transactions and use tax conforms to the Transactions and Use Tax Law Part 1.6 (commencing with Section 7251).*

*(c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.*

Although referred to as a "local sales tax" throughout this staff report, this revenue source

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is formally known as a "transactions and use tax" in State law. A transaction and use tax is imposed on the same goods and merchandise as sales tax; however, a sales tax (formally known in State law as a Bradley Burns sales and use tax) is allocated to the jurisdiction where the sale is negotiated or the order for the sale is taken. A transactions and use tax, on the other hand, is allocated to the City where the goods are delivered or placed into use. Merchandise purchased in a "walk-in" retail store is assumed by the state to be used within the city in which the store is located, unless the retailer is asked to ship the merchandise outside the city as part of the sale or it is a motor vehicle that can be driven away. For sales contracts that require shipment of merchandise, the local sales tax (transactions and use tax) is levied for the city to where the merchandise is shipped. A similar situation exists with vehicles that require registration: the local sales tax (transactions and use tax) of the city in which the vehicle is registered applies, regardless of where it was purchased.

If this local revenue measure passes, San Pablo will enter into two contracts with the State: the first to set up the tax and the second for ongoing administration. The tax will not be operative until the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance at the election. This means that a tax passed in June, 2014, would not be imposed and collected until the beginning of the last quarter of the year on October 1, 2014.

Staff considered three potential types of tax measures to bring in the necessary revenue: a temporary sales tax, an increase in the utility user's tax, or a parcel tax. For the following reasons, staff considers a temporary sales tax as the best approach:

Participant Diversity:

Sales tax is paid on a wide variety of goods, excluding (primarily) groceries and medicine. It is therefore a highly diversified source of revenue. A sales tax would be paid by a wide variety of individuals, including residents, local businesses, and workers in the City, and individuals from outside the City who purchase taxable goods in the City. Sales tax on motor vehicle purchases would be paid only by individuals registering the vehicle in San Pablo, regardless of where the vehicle was purchased. The sales tax would be paid by the highest number of payers relative to other revenue options such as a parcel tax or increase in the utility user's tax, and therefore has the most participant diversity of the three options.

Impact on Low/Fixed Income:

A sales tax increase would be paid only by purchasers of taxable goods in San Pablo. Because low income and fixed income individuals spend a large proportion of their incomes on non-taxable goods and services, a sales tax increase would not have as significant an impact on these individuals. Further, many purchases subject to sales tax are discretionary purchases, allowing low and fixed income individuals to minimize the impact of the new tax.

Impact on Business Community:

A sales tax increase would have a low impact on the business community, as the tax would

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be paid by purchasers of taxable goods rather than the business itself. Most office and service businesses would see little impact except for their own purchases of taxable goods in San Pablo. Anecdotal data from other California counties where city sales tax measures have been adopted indicates these measures had virtually no impact on the retail sales volumes in those cities, when comparing periods prior to and after adoption of a sales tax.

Impact on Residential Community:

A sales tax would have a medium to low impact on residents. It would apply only to taxable purchases and not to mortgage, other debt payments, utilities, services, medicine and most grocery purchases, which make up the majority of resident spending. Individuals purchasing a vehicle that is registered in San Pablo would pay the increased tax, regardless of whether the vehicle was purchased in San Pablo or another city.

**ELECTION PROCEDURES**

Submission of Ballot Arguments

Deadlines established by the County Elections Department require that arguments for or against the measure must be submitted by 5:00 p.m. on March 14, 2014. Arguments may not exceed three hundred (300) words, and cannot be signed by more than five (5) persons. The City Council has determined in the past not to adopt the provisions of Elections Code Section 9285(a) allowing for rebuttal arguments.

Council Preparation of Argument In Support of Measure

Under Elections Code section 9282, a ballot argument on this city council-sponsored measure may be authored by the city council, or any members of the council authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations. The City Council is asked to designate, by motion, two of its members to author the ballot argument in support of the measure. The argument may not exceed three hundred (300) words. Those two members may solicit up to three additional signatories.

Impartial Analysis

The City Attorney will prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit the impartial analysis to the Elections Division by March 14, 2014.

Roles and Limitations During Ballot Measure Campaign Period

The City can provide educational materials to the public, informing them about the Measure. But the City cannot expend any time, money or effort advocating a position supporting passage of the ballot measure. Council members and staff can work on the campaign on their own time and at their own expense, provided it is made clear that they are doing so on their own time and not with City resources.

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## **FISCAL IMPACT**

As sales tax is paid only on the purchase of taxable goods from businesses in San Pablo, this revenue would fluctuate in response to changes in the local, state and national economy, as well as the relocation of retailers into and out of the City's boundaries. As the economy continues to fluctuate, the City would see both positive and negative variations in this revenue source. However, the Finance Department currently estimates that a one-quarter cent sales tax would raise approximately \$500,000 per year.

The County has estimated that the cost for placing this measure on the June ballot will be \$2.00 per registered voter. San Pablo has 8,271 registered voters (increase of 616 registered voters since the last special election in June, 2012), for a total estimated cost of \$16,542.00. Due to efficiency changes at the County, this is substantially less than the \$2.75 per registered voter (\$21,051.25) estimated by the County for the June 2012 election. The actual cost per voter is dependent on the number of other jurisdictions on each ballot type within the district. The actual cost may be significantly more or less than this estimate, and will depend on supply and paper costs, fuel costs, labor costs and the number of jurisdictions consolidating with the election. The elections official will bill the city for the actual costs of the election conducted or a pro rata share of the actual costs if the election is consolidated.

s/cclk/cafs/2014Election/CAF2014EMS Special SalesTax.Reso

### **Departmental Coordination**

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## **RESOLUTION NO. 2014-**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO CALLING FOR AND GIVING NOTICE OF A JUNE 3, 2014 ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL OF A ONE-QUARTER OF ONE PERCENT (0.25%) TRANSACTIONS AND USE (SALES) TAX TO FUND EMERGENCY MEDICAL SERVICES AT SAN PABLO FIRE STATION #70, ESTABLISHING THE POLICIES AND PROCEDURES FOR SUCH AN ELECTION AND REQUESTING THAT THE COUNTY OF CONTRA COSTA CONDUCT SUCH AN ELECTION**

WHEREAS, the City Council desires to place a Transactions and Use (Sales) Tax Ordinance, as authorized by Revenue and Taxation Code section 7285.9 and attached hereto as Exhibit A, as a measure before the voters at the June 3, 2014 special election. Such tax shall be a special tax, the revenues of which shall only be used to fund Emergency Medical Services at Fire Station #70 in the City of San Pablo; should the County close Station 70, the revenues shall be used only to provide alternative EMS services for the City of San Pablo;

WHEREAS, City of San Pablo residents are serviced by the Contra Costa County Fire Protection District (ConFire) for their emergency medical and fire protection services. ConFire is currently in a financial crisis. Since 2008, it has seen a \$32 million decline in property tax revenue. In January 2012, the County Board of Supervisors approved a Fire Station Closure Plan for County Fire Stations which has closed five (5) fire stations to date (23 Engine Companies Remain). In November, 2012, a County-wide parcel tax measure (Measure Q) failed to garner sufficient 2/3rds vote to pass a \$75.00 per residential parcel tax to fund Fire and EMS Services Countywide (\$17 million annually if adopted; \$68 million over 4 years). ConFire is therefore facing insolvency in FY 2017, with a structural deficit of six million dollars to ten million dollars each year;

WHEREAS, there is only one county fire station in the City of San Pablo, Fire Station #70 in downtown San Pablo. Station 70 provides San Pablo with both fire and emergency medical services. Due to mutual aid agreements, Station 70 also provides service to seven other county unincorporated areas -- (i) Bayview, (ii) Mifflin-Barranca, (iii) North Richmond, (iv) Montalvin Manor, (v) Rollingwood, (vi) Tara Hills, and (vii) portions of El Sobrante/East Richmond Heights; and to the City of Richmond through automatic aid agreements;

WHEREAS, the current annual operating expenses required to fund Fire Station 70 amount to \$2.8 million per year. The City of San Pablo contributes only approximately \$811,000 annually;

WHEREAS, San Pablo's Station 70 is the busiest fire station in Contra Costa County. In 2012, for example, Station 70 responded to a total of 3,672 incidents in its service area. Of that total, 3,147, or 86%, were San Pablo calls. 82.5% of the service calls in San Pablo were EMS calls for Emergency Medical Services. Due to this overwhelming need for

emergency medical services for its residents, and the extremely high cost of fire engines responding not to fire calls, but to EMS calls in the City of San Pablo, the City Council finds that it is essential for the public health, safety and welfare for City residents that a funding method be found to support and ensure EMS response in the City of San Pablo through smaller EMS vehicle service instead of more expensive fire vehicles, particularly in light of the threatened impending closure of Doctor's Medical Center;

WHEREAS, all funds from this local revenue measure are required to stay in San Pablo to provide EMS services and cannot be taken by the State. Fiscal accountability will be ensured by requiring independent citizens' oversight, mandatory financial audits, and yearly reports to the community;

WHEREAS, it is desired that the Special Municipal Election be consolidated with the elections to be held on June 3, 2014;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES RESOLVE AS FOLLOWS:**

**Section 1. Call for Election**

Pursuant to California Constitution Article XIII C, Section 2, Government Code Section 53724, and Elections Code Section 9222, the City Council of the City of San Pablo hereby calls an election at which it shall submit to the qualified voters of the City a measure that, if approved, would adopt a special transactions and use tax, as authorized by Revenue and Taxation Code section 7285.91. This measure shall be designated by letter by the Contra Costa County Elections Department. Pursuant to Election Code Section 10400 et seq., the election for this measure shall be consolidated with the established election to be conducted on June 3, 2014.

**Section 2. Ballot Language**

The question to be presented to the voters shall be as follows:

"To ensure continued and adequate Emergency Medical Services for San Pablo residents, given the recent threat that County Fire Station #70, which is located in San Pablo, may be downsized or closed and given that Station 70 presently provides 100% of the EMS services for all San Pablo residents, shall San Pablo increase its sales tax by one-quarter percent to fund the creation of an Emergency Medical Services Squad, with mandatory audits, community oversight, and annual reporting."

This question requires the approval of two-thirds of qualified electors casting votes.

**Section 3. Proposed Ordinance**

The ordinance authorizing the special tax to be approved by the voters is as set forth in Exhibit A hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the June 3, 2014 election, as required by Revenue and Taxation Code section 7285.91. The Ordinance specifies that the rate of the

transactions tax shall be one-quarter of one percent (0.25%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City. It specifies that the rate of the use tax shall be one-quarter of one percent (0.25%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

The Board of Supervisors of the County of Contra Costa is requested to order the County Clerk to set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the primary arguments for and against the measure, and to provide absent voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law.

#### **Section 4. Request to Consolidate, Conduct Election and Canvass Returns**

The Board of Supervisors of the County of Contra Costa is hereby requested to authorize the County Clerk to render all services necessary and proper for the conduct of the election. Pursuant to California Elections Code section 10403, the City Council hereby requests that the Contra Costa County Board of Supervisors consolidate the election called by this Resolution with the election to be conducted on June 3, 2014 and order the election to be conducted by the Registrar of Voters. The Contra Costa County Elections department is authorized to canvass the returns of the special election, and the election shall be held in all respects as only one election.

The City Clerk is authorized, instructed and directed to work with the County Elections Division as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. The County Elections Division is authorized to canvass the returns of the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

#### **Section 5. Time and Place of Election**

The polls for the election shall be open at 7:00 a.m. on the day of the election and shall remain open continuously from that time until 8:00 p.m. that same day, when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California. The notice of the time and place of holding the election is hereby given, and the City Clerk is authorized to give further notice of the election, as required by law.

#### **Section 6. Publication of Measure**

The City Clerk is hereby directed to cause notice of the measure to be published once in accordance with Section 12111 of the Elections Code.

#### **Section 7. Submission of Ballot Arguments**

(a) The last day for submission of arguments for or against the measure shall be by 5:00

p.m. on March 14, 2014. The direct arguments shall not exceed three hundred (300) words, and shall not be signed by more than five (5) persons. The City Council does not adopt the provisions of Elections Code Section 9285(a); there shall be no rebuttal arguments.

#### **Section 8. Council Preparation of Argument In Support of Measure**

Pursuant to California Elections Code Section 9282, the City Council will designate two Councilmembers to prepare a written argument in favor of the proposed measure, not to exceed three hundred (300) words. At the discretion of such two councilmembers, the argument may also be signed by other members of the City Council, bona fide associations of citizens, or by individual voters who are eligible to vote.

#### **Section 9. Impartial Analysis**

Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit the impartial analysis to the Elections Division by March 14, 2014.

#### **Section 10. Implementation.**

The City Manager and City Clerk, or his or her designee, are authorized and directed, on behalf of the City, to take all actions necessary to place the measure on the ballot and to cause the ordinance or measure to be printed, including but not limited to executing documents and appropriating the necessary funds to pay the City's cost of placing the measure on the ballot. The city will reimburse the county for the actual cost incurred by the county elections official in conducting the election upon receipt of a bill stating the amount due as determined by the elections official. The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors and the County Clerk of the County of Contra Costa, and the Registrar of Voters, together with the attached ballot measure.

#### **Section 11. Jurisdictional Boundaries**

The jurisdictional boundaries of the City of San Pablo have not changed since the last general municipal election.

#### **Section 12. CEQA**

The approval of this Resolution to place on the ballot a special tax that will provide funding for an EMS squad to use smaller EMS vehicles to respond to EMS calls in the City of San Pablo, as opposed to more expensive, larger fire rigs, is exempt from the California Environmental Quality Act under CEQA Guidelines § 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. ConFire will respond to the same medical emergencies as before. The funds raised will be restricted to funding an EMS squad which will respond to emergency medical calls in the City via smaller EMS vehicles rather than larger fire vehicles that get worse gas mileage and emit more emissions. In addition, the activity is not a project under CEQA pursuant to Guidelines Section 15378(b)(5): Organizational or

administrative activities of governments that will not result in direct or indirect physical changes in the environment. The City Manager is directed to ensure that a notice of exemption is filed immediately with the County Clerk.

**Section 13. Passage of this Resolution.**

This tax is a special tax requiring the approval of two-thirds of qualified electors casting votes. This Resolution, including the submission of the proposed Ordinance (attached as Exhibit A) must be approved by a two-thirds vote of all members of the City Council. This Resolution shall become effective immediately upon its passage and adoption by the People.

\* \* \* \*

Adopted the 3rd day of March, 2014, by the following vote to wit:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

ATTEST:

APPROVED:

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Ted Denney, City Clerk

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Paul Morris, Mayor

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## ORDINANCE 2014-

### AN ORDINANCE OF THE CITY OF SAN PABLO IMPOSING A TRANSACTIONS AND USE TAX FOR EMERGENCY MEDICAL SERVICES TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

#### Recitals

WHEREAS, the City Council desires to place a Transactions and Use (Sales) Tax Ordinance, as authorized by Revenue and Taxation Code section 7285.9 and attached hereto as Exhibit A, as a measure before the voters at the June 3, 2014 special election. Such tax shall be a special tax, the revenues of which shall only be used to fund Emergency Medical Services at Fire Station #70 in the City of San Pablo; should the County close Station 70, the revenues shall be used only to provide alternative EMS services for the City of San Pablo;

WHEREAS, City of San Pablo residents are serviced by the Contra Costa County Fire Protection District (ConFire) for their emergency medical and fire protection services. ConFire is currently in a financial crisis. Since 2008, it has seen a \$32 million decline in property tax revenue. In January 2012, the County Board of Supervisors approved a Fire Station Closure Plan for County Fire Stations which has closed five (5) fire stations to date (23 Engine Companies Remain). In November, 2012, a County-wide parcel tax measure (Measure Q) failed to garner sufficient 2/3rds vote to pass a \$75.00 per residential parcel tax to fund Fire and EMS Services Countywide (\$17 million annually if adopted; \$68 million over 4 years). ConFire is therefore facing insolvency in FY 2017, with a structural deficit of six million dollars to ten million dollars each year;

WHEREAS, there is only one county fire station in the City of San Pablo, Fire Station 70 in downtown San Pablo. Station 70 provides San Pablo with both fire and emergency medical services. Due to mutual aid agreements, Station 70 also provides service to seven other county unincorporated areas -- (i) Bayview, (ii) Mifflin-Barranca, (iii) North Richmond, (iv) Montalvin Manor, (v) Rollingwood, (vi) Tara Hills, and (vii) portions of El Sobrante/East Richmond Heights; and to the City of Richmond through automatic aid agreements;

WHEREAS, the current annual operating expenses required to fund Fire Station 70 amount to \$2.8 million per year. The City of San Pablo contributes only approximately \$811,000 annually;

WHEREAS, San Pablo's Station 70 is the busiest fire station in Contra Costa County. In 2012, for example, Station 70 responded to a total of 3,672 incidents in its service area. Of that total, 3,147, or 86%, were San Pablo calls. 82.5% of the service calls in San Pablo were EMS calls for Emergency Medical Services. Due to this overwhelming need for emergency medical services for its residents, and the extremely

high cost of fire engines responding not to fire calls, but to EMS calls in the City of San Pablo, the City Council finds that it is essential for the public health, safety and welfare for City residents that a funding method be found to support and ensure EMS response in the City of San Pablo through smaller EMS vehicles instead of more expensive fire vehicles, particularly in light of the threatened impending closure of Doctor's Medical Center;

WHEREAS, all funds from this local revenue measure are required to stay in San Pablo to provide EMS services and cannot be taken by the State. Fiscal accountability will be ensured by requiring independent citizens' oversight, mandatory financial audits, and yearly reports to the community;

WHEREAS, the tax, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property. The tax revenue would be collected by the State Board of Equalization and remitted to the City.

WHEREAS, the transactions and use tax to be submitted to the voters is a special tax that may only be used for the purposes specified in the measure. It shall be approved if the measure receives at least a two-thirds vote at a Special Municipal Election to be consolidated with the general election to be held on June 3, 2014.

**THE PEOPLE OF THE CITY OF SAN PABLO DO ORDAIN AS FOLLOWS:**

Section 1. Chapter 3.26 is hereby added to the San Pablo Municipal Code to read as follows:

**"3.26.010. Title.** This ordinance shall be known as the City of San Pablo Emergency Medical Services Transactions and Use Tax Ordinance. The City of San Pablo hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

**3.26.020. Operative date.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**3.26.030. Purpose.** This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California

insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

**3.26.040. Contract with State.** Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

**3.26.050. Transactions tax rate.** For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.25% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

**3.26.060. Place of sale.** For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

**3.26.070. Use tax rate.** An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.25% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**3.26.080. Adoption of provisions of state law.** Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

**3.26.090. Limitations on adoption of State law and collection of use taxes.** In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

**3.26.100. Permit not required.** If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

**3.26.110. Exemptions and exclusions.**

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

**3.26.120. Amendments.** All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

**3.26.130. Enjoining collection forbidden.** No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

**3.26.140. Expenditure Plan, Audit, Oversight, Reporting.** Revenue and Taxation Code section 7285.91 requires that this ordinance include "an expenditure plan describing the specific projects for which the revenues from the tax may be expended." All revenue from the tax shall be restricted revenue used solely to fund Emergency Medical Services for the City of San Pablo. It has been estimated that the tax will generate approximately \$550,000 annually. The City intends to negotiate an agreement with the Fire Protection District under which City will remit payment to the District on an agreed-upon basis in order to help fund the cost of providing a supplemental EMS squad at Station 70. Payments will be made on a regular basis on a frequency to be determined by city and county fire.



The city's independent auditors shall complete a report reviewing the collection, management and expenditure of revenue from the tax levied by this chapter. Additionally, there shall be a committee consisting of no fewer than five seats (if sufficient applications are received) to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this chapter. The committee members shall be either San Pablo residents or representatives of San Pablo businesses; the City Council may utilize the same oversight committee established to review and report on the Measure Q Transactions and Use Tax approved in 2012. The committee's report and recommendations shall be completed by a date to allow for it to be considered as part of each annual budget process, commencing at least one full year after the tax revenue is first received. The committee's report and recommendations shall be a matter of public record and shall be considered and reported by the City Council at a public meeting.

**3.26.150. Severability.** If any sections, subsections, sentences, clauses, phrases or portions of this chapter are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The People hereby declare that they would have passed this and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

**3.26.160. Effective date.** This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately upon approval by the voters."

**Section 2:** The People of San Pablo find that all Recitals are true and correct and are incorporated herein by reference.

**Section 3:** The approval of this special tax that will provide funding for an EMS squad to use smaller EMS vehicles to respond to EMS calls in the City of San Pablo, as opposed to more expensive, larger fire rigs, is exempt from the California Environmental Quality Act under CEQA Guidelines § 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. ConFire will respond to the same medical emergencies as before. The funds raised will be restricted to funding an EMS squad which will respond to emergency medical calls in the City via smaller EMS vehicles rather than larger fire vehicles that get worse gas mileage and emit more emissions. In addition, the activity is not a project under CEQA pursuant to Guidelines Section 15378(b)(5): Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. The City Manager is directed to ensure that a notice of exemption is filed immediately with the County Clerk.

ATTEST:

APPROVED:

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Ted J. Denney, City Clerk

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Paul V. Morris, Mayor

\* \* \* \* \*

This Ordinance was introduced by the City Council on February 18, 2014, adopted by the City Council on \_\_\_\_\_, 2014, and submitted to the People of the City of San Pablo at the June 3, 2014 special election. It was approved by the following vote of the People:

YES:

NO:

ABSENT:

ABSTAIN:

The Ordinance was thereby adopted by of the voters at the June 3, 2014, election and took effect upon adoption of a resolution declaring the results of the election at a regular meeting of the City Council held on \_\_\_\_\_, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and regularly adopted by the People of the City of San Pablo, California.

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Ted J. Denney, City Clerk

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